Workplace Bullying, Harassment and Discrimination Policy

Objective

To identify, minimise and where possible prevent harassment, discrimination and bullying in the workplace by eliminating intimidating, humiliating, offending, and threatening behaviour and encouraging a professional and productive workplace. Outlined objectives within this policy include but are not limited to:

- To ensure that all employees understand the definition of workplace bullying.
- Prevent bullying and maintain an environment that is free from workplace bullying.
- Outline how complaints of workplace bullying, harassment or discrimination can be made and how claims will be treated by Council and
- Outline procedures to investigate and resolve incidents.

Policy

1. The council does not tolerate bullying conduct or any other behavior's inconsistent with this policy nor anyone taking reprisals against those who come forward to disclose such conduct.
2. All employees, volunteers, contractors, and agents of Council are expected to comply with this policy, to behave in a professional manner and to treat each other and members of the public with dignity and respect when they are at work.
3. Council will take all reasonable steps to ensure that employees, volunteers, contractors, and agents of Council are not subjected to bullying behaviors from members of the public in the course of their duties.
4. Anyone covered by this policy who experiences or witnesses bullying, harassment or violence should report any behaviour that violates this policy or any related law/regulation; or is a danger to public health or safety as soon as possible.
5. The Shire of Jerramungup encourages all employees to report workplace bullying. Managers and supervisors will endeavour to ensure that no one making a complaint, or witnesses are victimised.
6. Council is committed to transparency and accountability in its administrative and management practices, and supports complaints or disclosures that reveal bullying behaviours, or conduct involving a substantial risk to public health and safety.
7. The Shire of Jerramungup has grievance and investigation procedures to deal with workplace bullying. Any reports of workplace bullying will be treated seriously and investigated promptly, confidentially, and impartially.

8. All information will be treated confidentially and where information is required to be reported, this will be advised to the relevant party.
9. Disciplinary action will be taken against anyone who bullies a co-employee. Discipline may involve warning, transfer, counselling, demotion or dismissal, depending on circumstances.

Terms Used

Health

Health' is defined in the *model WHS Act* as both physical and psychological health. As part of its primary duty a *PCBU* must manage the *risks* to a worker's psychological health, so far as is reasonably practicable.

Bullying

Bullying is defined as repeated and unreasonable behaviour directed towards an employee or group of employees that creates a risk to the worker/s health, safety and wellbeing and is directed related to the workplace. Bullying does not have to be intentional and includes any behaviour that could be expected to intimidate, offend, degrade, humiliate, undermine, or threaten. Bullying is a form of harassment, may also be a criminal offence and can be prosecuted by WorkSafe in Western Australia. In the context of this policy bullying behaviour(s) include harassment or occupational violence (see sub-definitions below).

Harassment

Harassment is a type of bullying but may arise from fewer incidents and is where a person is made to feel intimidated, insulted or humiliated because of their race, colour, national or ethnic origin; sex; disability; sexual preference; or some other characteristic specified under anti-discrimination or human rights legislation.

Discrimination

Discrimination is treating someone less favourably, because of an attribute or personal characteristic, than someone with the same or different attribute or trait. Discrimination may include bullying and harassment over one of these traits.

Complaint

A complaint is about any type of situation, activity, behaviour, or item which causes concern about work or workplace. It can be against or about a person or a workplace system or procedure. It includes actions of an individual or a group and may involve using a system of work as a means of victimising, humiliating, undermining or threatening.

Health and Safety Representative

in relation to a worker, means the health and safety representative elected under Part 5 for the work group of which the worker is a member.

Complaint Handler

The person who handles the complaint to its conclusion. This will usually be the Manager and/or the HR representative.

Inappropriate Behaviour

Inappropriate behaviour is any action which causes a staff member to feel uncomfortable or offended. More formally, it includes behaviour which can be described as harassing, bullying, discriminatory and victimising in its impact.

Repeated Behaviour

Repeated behaviour refers to the persistent nature of the behaviour and can involve a range of behaviours over time.

Occupational Violence

Occupational violence or assault differs from the definition above as it can result from a single incident or small number of incidents - whereas bullying tends to be an accumulation of incidents over a long period of time.

Unreasonable Behaviour

Unreasonable behaviour means behaviour that a reasonable person, having regard for the circumstances, would see as unreasonable, and would expect to victimise, humiliate, undermine, or threaten.

Sub-Definitions:

Examples of Bullying Behaviour may include, but are not limited to:

- Excluding or isolating employees.
- Psychological harassment.
- Verbal/non-verbal threats or abuse.
- Offensive or insulting language or attempting to humiliate someone in front of another sniggering, gossiping or spreading rumours or innuendo about someone.
- Intimidation.
- Laughing at someone in the workplace which is intended to make them feel uncomfortable or distressed.
- Any of the above behaviours in an on-line or social media environment taking and or sharing digital photographs that demean or humiliate a person (this may also contravene other legislation such as Privacy).
- Individual or groups of employees forcing a new employee to participate in an “initiation” process; playing of practical jokes on or forcing an employee to undertake demeaning tasks.

In addition, Bullying may also include:

- Assigning meaningless tasks unrelated to the job.
- Assigning impossible tasks, setting unreasonable timelines or constantly changing deadlines deliberately changing rosters to inconvenience employees.
- Deliberately withholding information that is vital for effective work performance.
- Using a management style that is harsh, involves shouting, constant criticism or humiliation of an employee or group of employees in private or in front of their peers.

- Continuously and deliberately excluding someone from workplace activities including ignoring them and keeping them isolated from relevant communications about work issues.

Workplace Bullying does not include the taking of reasonable management actions which are carried out appropriately, including:

- Work performance (including performance management) and management procedures Allocation of work or legitimate directive to an employee, contractor or agent related to a job role.
- Rostering and allocation of working hours.
- Informing an employee, contractor, or agent about inappropriate behaviour.
- Disciplinary action or allocation of work according to Council practices and procedures or Organisational review and implementation of change.

Violence is defined as any incident where an employee is physically attacked or threatened. It may be a one-off event. Examples include:

- striking, kicking, scratching, biting, spitting or any type of physical contact.
- throwing objects.
- pushing, shoving.
- attacking with any type of weapon.

Violence can come from:

- a co-worker (including a supervisor, manager, agent, volunteer).
- a customer or client.
- a person known to the organisation or employee.
- an unknown person.
- Even when provoked (possibly by bullying) occupational violence will not be tolerated.

Purpose

The Jerramungup Shire Council is committed to providing employees, volunteers and other agents with a safe and healthy work environment free from bullying, harassment and occupational violence, and regards this to be a primary responsibility as an PCBU. The purpose of this policy is to outline Council's position that bullying, and workplace violence will not be tolerated and to provide guidelines for the processes to follow if any instances of bullying or other inappropriate behaviours outlined below are reported.

Rationale

Workplace bullying, harassment and discrimination create an unsafe working environment and increases risks to the health of employees. PCBU have a duty, under Division 2 of the *Work Health and Safety Act 2020*, to ensure, so far as practicable, risks to health and safety because of bullying and violence in the workplace are eliminated or reduced. Council is committed to eliminating, as far as possible, all forms of bullying in the workplace and in its relationships with its users through a culture of openness, support, and accountability.

STANDARDS OF BEHAVIOUR:

Council aims to create positive working relationships, and requires everyone observe the Staff Code of Conduct and follow minimum standards of behaviour, including:

- Being polite and courteous to others.
- Being respectful of the differences between people and their circumstances.
- Ensuring they do not engage in any bullying or offensive behaviour(s) towards others.
- Ensuring they do not assist or encourage others to engage in bullying or offensive behaviour(s); Supporting colleagues and reporting any bullying behaviour(s) they see happening to others and Keeping information confidential if involved in any investigation of bullying behaviour(s).

THE PRIMARY DUTY

The primary duty of care requires the *PCBU* to ensure so far as is reasonably practicable the:

- Provision and maintenance of a safe work environment.
- Provision and maintenance of safe plant and structures.
- Provision and maintenance of safe systems of work.
- Safe use, handling and storage of plant, structures, and substances.
- Provision of accessible and adequate facilities (for example access to washrooms, lockers, and dining areas).
- Provision of any instruction, training, information, and supervision.
- Monitoring of workers health and conditions at the workplace; and
- Maintenance of any accommodation owned or under their management and control to ensure the health and safety of workers occupying the premises.

Application

Drug and Alcohol Screens

All personnel may be subject to drug and alcohol testing on entry to site, commencement of work or at any time whilst performing work for the Shire. Being under the influence of alcohol will not be permitted whilst working on the premises or property of the Shire of Jerramungup.

Employees who commence work whilst under the influence of alcohol including, working under the adverse effects of alcohol, will be stood down from their duties and taken to the nearest approved medical Centre for a blood alcohol test. If a blood, alcohol level is deemed 0.05 and over, employees will be sent home without pay for the remainder of the day. Testing (other than self-testing) will be conducted in accordance with AS/NZ Standards applicable at the time of testing by a suitably trained, qualified collector.

The Shire has a zero (0.00%) alcohol limit, and measures drug levels in accordance with AS/NZ Standards. If the blood alcohol level is under 0.05, employees will be prohibited to operate machinery, plant or equipment until a blood alcohol content of 0.00 is reached. Sedentary duties, under direct supervision of the applicable supervisor/manager, will be offered until then.

If the blood alcohol test provides positive results on the first offence, the employee will receive a written warning.

There may be occasions where alcohol may be included as part of a work function or other recognised work event. Where the Chief Executive Officer has properly approved the consumption of alcohol, employees must continue to behave in a sensible and responsible manner with due care for their own and other people's safety and wellbeing. Failure to behave in a sensible and responsible manner with due care, or any failure to follow any directions given by management regarding the consumption of alcohol may result in disciplinary action. It is a condition of the Shire of Jerramungup that employees make alternative arrangements to get home. The Shire accepts no responsibility for employees during travel to and from the function.

Drugs and Prescription Medication

Illicit drugs and other substances are strictly prohibited by the Shire of Jerramungup. Being under the influence of, suffering adverse effects of, in possession of, or found to be cultivating, selling or supplying drugs or other substances whilst on the Shire property or premise will result in disciplinary action and possibly instant dismissal.

If suspected of the above, an employee must undergo a drug screen (paid by the Shire). Prior to undertaking testing, the person must advise the tester if they are taking any medication such as over the counter or prescription. An attempt to declare after testing will not be considered under any circumstances. Some prescription and over the counter medication can register as a non-negative result when drug testing occurs. For example:

- Codeine™ with Opioids
- Codral™ with Opioids
- Demazin™ with Amphetamines
- Actifed™ with Amphetamines

All personnel have a responsibility to ensure they have consulted with their doctor or pharmacist as to what effect the drug or medication may have and if there is a risk that it may adversely affect their fitness for work, or lead to a positive test result.

If at any time personnel is taking medication or drugs, which may affect their fitness for work, they have a responsibility to declare this to their Direct Supervisor or Management in writing. This will allow the Direct Supervisor or Management to arrange safe and suitable work tasks are assigned (where possible) or seek appropriate information to ensure the person and/or others are not placed at risk. Refusal to a drug screen may result in disciplinary action being taken.

If the drug screen proves positive results on the first offence, the employee will receive a written warning.

If an employee is found to give a positive result on the second offence, they will receive a second written warning. On the second offence, the employee must agree to be submitted for consequent drug testing (every fortnight or at random) for a (two-month) period.

Any third offence the employee will be made to go to mandatory drug and alcohol counselling, if the employee does not comply disciplinary will be action taken and may result in loss of employment.

Fatigue Management

Fatigue is a general term used to describe the feeling of being tired, drained, or exhausted and is accompanied by poor judgment, slower reactions to events and decreased skill levels. Where the effects of fatigue and/or the nature of the work being performed induces fatigue causing impairment to a person's health and safety, the Shire will ensure that appropriate and reasonable action is taken. Fatigue can be the result of many different situations. Due to this, this procedure will directly reflect the implications of fatigue through the following external triggers (but are not limited to):

- Lack of sleep
- Voluntary work
- External work commitments

In the interests of safety and health, it is important that employees remain alert and function at full capacity whilst at work. When affected by fatigue, actions may be impaired through lack of concentration and poor judgement, therefore increasing the potential to cause injury or harm to themselves, personnel or members of the public.

It is the Shire of Jerramungup procedure to provide a safe place of work for its employees. It is an employee's responsibility to report to their supervisors any other work commitments or voluntary commitments outside of their employment with the Shire of Jerramungup, which may affect their fitness for work.

Depending on the circumstances, the Shire may agree to come to a compromise with the employee to ensure there is equilibrium between regular hours worked at the Shire, sleep/rest and additional hours worked elsewhere (including paid and voluntary work). If this agreement is abused by the employee, disciplinary action will result.

If deprivation of sleep is the cause of fatigue due to other external circumstances, a drug and alcohol screen will be required. If positive, disciplinary action will result.

In circumstances where the employee is unfit to remain at work as to the judgement of their manager, the employee will be stood down from work if the fatigue is self-inflicted, for the remainder of the day. Alternatively, to being stood down, the employee can choose to take a leave day.

In case of being stood down due to fatigue caused by work or related volunteer activities, the employee will be paid for a standard day (8 hours for admin staff, 8.5 hours for the works department).

Employee Assistance Program (EAP)

The Shire of Jerramungup understands employees may be experiencing external difficulties to work that may influence their behaviour and health whilst at work. To assist personnel, the Shire has in place a confidential employee assistance program. The program consists of professional counselling services in several areas, which include, but are not limited to:

- Drugs and alcohol
- Personal affairs
- Support services

- Addictions
- Stress

For this procedure, this program may be offered to first offence employees through ratification of the CEO. Otherwise, this program will be offered on the second affirmed screening. The Shire will offer a total of 3 counselling sessions, if further sessions are required, approval is to be deemed by the CEO.

If an EAP is offered because of a first offence and the employee declines the offer, they risk the consequence of instant dismissal on a second offence.

Employees who have not failed to meet the guidelines of this procedure and feel an EAP would benefit them due to personal circumstances may utilise these services on ratification by the CEO. Such employees do not contravene the guidelines of this procedure if they volunteer for the EAP service.

Provision for Medical Assessment

A person may be referred to a certified medical practitioner of the Shires choosing for a fitness for work medical assessment coordinated by Management where the Shire has a genuine indication of the need for such examination and in deciding the need will consider the following:

- Has there been a prolonged absence from the workplace without explanation or evidence?
- Has adequate medical information been provided to explain the absence and demonstrate the person's fitness for work?
- What level of risk is involved in the person's normal duties?
- Are there legitimate concerns that the person's illness or injury will affect others in the workplace?

Where a certified medical practitioner will not or is unable to confirm a person's fitness for the stated duties, they will be requested to refer the person to a specialist. Further action will be dependent on the fitness for duty report.

Work Related Injury or Illness

All work-related injuries or illnesses will be dealt with by Management in accordance with Injury Management and/or Workers Compensations processes.

Non-Work-Related Injury or Illness (NWRI)

Non-work-related injury or illness (including physical, mental, or psychological conditions) are those which do not arise out of the course of employment or have not been deemed compensable under the *Workers Compensation and Injury Management Act 1981*.

If an employee experiences a significant non-work-related injury or illness that has the potential to impact on their ability to undertake the full duties of their position, then a medical clearance from their treating practitioner, confirming the employees' abilities to undertake the duties of their role, will be required before returning to work. If an employee presents to work and is subsequently unable to carry out the duties of their position, or where their supervisor reasonably believes there is a risk to them or other employees, the employee may be stood down in consultation with Management until independent medical advice is received, confirming their fitness for work.

Risk Management

Self-Management

Any person, who believes they may be unfit for work for any reason is expected to inform their Direct Supervisor accordingly and not to commence work.

Identify and Assess

Where it is suspected that a person has presented to work in an unfit condition or such condition arises while at work, an assessment must be carried out and may include:

- Face to face discussion between Direct Supervisor and the employee.
- Determine whether prescribed or over the counter medication may be producing their behaviour.
- Assess work duties that may contribute to levels of stress or fatigue.
- Arrange for a medical assessment (in conjunction with Management).
- Arrange for testing of alcohol and/or other drugs.
- Psychological/emotional assessment.
- Where practicable, obtain a witness statement of incident involving affected person.
- Action.

If, following an assessment, there is concern for the wellbeing of the person and their fitness for work, then appropriate action to ensure their safety is to be taken. Such action may include:

- Arrangements for further medical treatment.
- Discuss in confidence with the person options to manage identified risks.
- Offer appropriate and reasonable counselling such as EAP services.
- The person being stood down from duties and suitable transport being arranged.
- Inform the person they are being stood down from work pending investigation.
- Develop an appropriate review and case management plan if applicable.
- Keep in regular contact with the person, offer support and assistance where appropriate Consultation with Management is essential, as is confidential documentation.

Disciplinary Action

If this procedure is in any way contravened by an employee the following will result.

General Guidelines

Any employee who tests positive to an alcohol breath screen or urine screen will be stood down from their work and will not be permitted to resume work until such time as they have proven they are fit for work. Any person who is found to be significantly fatigued will also be stood down from work until they have proven they are fit for work.

Exemptions to this apply to emergency services volunteers as per individual agreement.

Employees fully returning to work after an injury or illness must provide the Shire of Jerramungup with a final medical certificate from their treating medical practitioner, showing no restrictions on their ability to work. Any other cases will be dealt with in accordance with the Shire's "Injury Management and Rehabilitation Policy (WHS06) and procedures.

First Offence:

a) The employee will be immediately suspended from duty without pay if found unfit to work.

b) The employee will not be permitted to return to work until they have been tested again and proved negative for all prescribed substances.

c) The employee will be given the opportunity to state their case. Unless there are convincing arguments to the contrary, this procedure will continue.

d) The employee will be counselled by their supervisor that will focus on.

e) The unacceptability of the employee's behavior.

f) The risk that such behavior creates for the safety of the individual and other employees or members of the public.

g) The employee's responsibility to demonstrate that the problem is being effectively addressed.

h) If any future breach of the policy will result in a second offence or instant dismissal.

i) The employee will be formally offered the opportunity to contact a professional counsellor. The decision to undertake counselling or other treatment for alcohol or other drug or substance problems is the responsibility of the employee and cannot be made mandatory. However, refusal to accept counselling may result in instant dismissal on second offence. The Shire of Jerramungup will insist that the employee provide satisfactory evidence that the effect of work performance and/or safety has been addressed before they are permitted to return to work.

Second Offence:

a) The employee will be immediately suspended from duty if found unfit for work.

b) The employee will be given the opportunity to state their case. Unless there are convincing arguments to the contrary, this procedure will continue.

c) The employee will not be permitted to return to work until they have been tested again and proved negative for all prescribed substances.

d) The employee will be counselled by their supervisor that will focus on.

e) The unacceptability of the employee's behavior.

f) The risk that such behavior creates for the safety of the individual and other employees or members of the public.

g) The employee's responsibility to demonstrate that the problem is being effectively addressed.

h) That any future breach of the policy will result in instant dismissal.

i) Counselling will be offered, refer to *First Offence (v),* if counselling was not used in the first offence.

j) The employee will be instantly dismissed without notice if found to decline the offer to an EAP on second offence.

k) The employee maybe submitted fortnightly or randomly for alcohol and/or drug screening for the period of two months paid by the Shire of Jerramungup. If tests confirm positive, instant dismissal will follow. If the employee refuses to comply, instant dismissal will follow.

Third Offence:

a) The employee will be given the opportunity to state their case. Unless there are convincing arguments to the contrary, this procedure will continue.

b) The employee will be immediately dismissed from duty without notice.

Instant Dismissal:

The following are guidelines to circumstances that may result in dismissal without notice:

a) Any attempt to falsify the drug and alcohol screen.

b) Cultivating, selling or supplying drugs and/or other substances on or off the worksite.

c) Unauthorised consumption of illicit drugs or alcohol whilst on the work site or during the working period.

d) Unlawful behavior.

Other:

If an employee is found to be heavily intoxicated, above the legal limit to drive, or extremely fatigued and they are to be sent home, it is a requirement of the supervisors to:

a) Contact the employee's next of kin to arrange pick up.

b) If next of kin is unable to be contacted or unable to take the employee home, a staff member authorised by the CEO will be appointed to take the employee home. The employee is to be advised that their vehicle must be collected that day.

Copies of this Policy shall be made available to all employees, contractors, volunteers and visitors, and displayed within the workplace.

Document Control			
Action	Date	Officer	Comments
Adopted	October 2009	Brent Bailey	Adopted by Council at Ordinary Meeting
Review	April 2011	Brent Bailey	Update and Incorporate Injury Management Procedure
Review	May 2014	Janna Kleszewski	Restructured/upgraded OSH Manual Incorporated OSH Policies, reviewed and amended existing policies and procedures, included important contact details
Review	April 2016	Lizzy Hyde	Review of entire document
Review	Dec 2018	Danielle Wisewould	Restructured/upgraded OSH Policy, reviewed and amended existing policies and procedures, included important contact details
Adopted	Aug 2019	Danielle Wisewould	Adopted by Council at Ordinary Meeting
Changed	Sept 2023	Danielle Wisewould	Changed to WHS legislation
Review	September 2025	Martin Cuthbert	Review of document
Rebrand	September 2026	Danielle Wisewould	Updated with rebrand template

Document Review			
Action	Date	Officer	Comments
Review	September 2027	Danielle Wisewould	Standard review

Chief Executive Officer
Martin Cuthbert

_____ 1/10/2026

Work Health and Safety Supervisor
Danielle Wisewould

_____ 1/10/2026