



CHERBOURG ABORIGINAL SHIRE COUNCIL

Minute Number:952
Adopted On: 27th

Equal Employment Opportunity Policy

1. POLICY STATEMENT

This Policy states Cherbourg Aboriginal Shire Council's ("CASC") commitment to preserving the Equal Employment Opportunity (EEO) principle within all Council workplaces and employment related decisions.

2. SCOPE

This Policy applies to all CASC employees, including temporary and permanent employees, Councillors, contractors, volunteers, work experience students and trainees. This Policy also applies to any representative of CASC involved in employment-related decisions.

3. POLICY OBJECTIVES

To clearly formulate the responsibilities of Council and all employees in relation to the preservation of the EEO principle, and the application of these responsibilities.

4. BACKGROUND AND/OR PRINCIPLES

This Policy operates in conjunction with legislation governing the provision of equal rights and opportunities to employees and potential employees of Council. As stipulated by legislation, the EEO principle makes unlawful any employment-related decisions made by an employer or their representative on the basis of a person's attribute which is not justifiably relevant to the decision. This includes a person's age, gender, marital status, disability, race, sexual preference or religion – in accordance with the EEO principle, such attributes are not to be considered when bestowing employment-related opportunities such as employment, promotion, and training opportunities. Unlawful consideration of such attributes is discrimination.

As an extension of discrimination, the Queensland Anti-discrimination Act 1991 also prohibits and penalises other defined objectionable behaviour, including requests for information on which unlawful discrimination may be based; encouraging contravention of the Queensland Antidiscrimination Act 1991; inciting racial or religious hatred; discriminatory advertising; and victimisation as defined in this Policy.

The Merit principle will be utilised by CASC to provide a structured, transparent method of upholding the EEO principle. The Merit principle explicitly disregards attributes such as those listed above, but rather determines the suitability of a person relative to an opportunity by assessing the person's demonstrated skills, abilities, qualifications, knowledge, experience, work performance, conduct and behavioural attitude. This ensures that CASC selects the most appropriate person to capitalise on the opportunity offered (i.e. "the best person for the job").

While sexual harassment is governed by the Queensland Anti-discrimination Act 1991, it will be addressed through Council's Harassment Prevention Policy.

Workplace harassment is governed by Council's Harassment Prevention Policy and the *Workplace Health and Safety Act 2011*

5. LEGISLATIVE AUTHORITY

Queensland Local Government Act 2009
Queensland Local Government Regulation 2010

Queensland Anti-discrimination Act 1991
Disability Discrimination Act 1992
Racial Discrimination Act 1975
Sex Discrimination Act 1984
Age Discrimination Act 2004
Human Rights and Equal Opportunity Commission Act 1986.

6. GENERAL INFORMATION

6.1 Responsibilities for Equal Employment Opportunity

The Chief Executive Officer has overall responsibility for the effective implementation of the EEO principle throughout CASC. This includes assisting with the development and implementation of an EEO Management Plan in accordance with the *Local Government Regulation 2010*, to eliminate unlawful discrimination and promote EEO for members of the target groups in employment matters.

The Chief Executive Officer's responsibilities will be conducted with the support of all employees and management through appropriate recognition of, promotion of and compliance with Council and legislative EEO stipulations and processes.

All employees are required by the *Queensland Anti-discrimination Act 1991* to relate to other persons, including fellow employees, management and customers, in a non-discriminatory and respectful manner. This includes not participating in victimisation of a person – for instance, where a person has made a complaint alleging discrimination, had a complaint made against them, or acted as a witness under the *Queensland Anti-discrimination Act 1991*. Employees are also responsible for reporting suspected or verified instances of discrimination to management for investigation, even where the employee has witnessed, rather than been victim of, the behaviour. Employees are also responsible for assisting as necessary in the investigation of alleged discrimination, and handling all allegations and investigations in a discreet and confidential manner.

Employees involved in the decision-making process must ensure that their decisions are based on the principle of Merit when allocating opportunities – for instance, when operating on a Selection Panel, or when distributing Learning and Development funds. While the requirement for written assessment and documentation may not exist for all decisions, employees are encouraged to consider all relevant decisions in light of this Policy for their own benefit, and the benefit of those influenced by the decision.

Employees involved in grievance and discipline investigations must conduct proceedings in a fair, transparent and non-discriminatory manner, in accordance with CASC's Policies and Procedures, and maintain consistency across situations of like nature.

In addition to these responsibilities, Supervisors, Managers and Directors are responsible for promoting the EEO principle within their work areas, as well as thoroughly investigating any suspected inappropriate performance or conduct by an employee.

6.2 Application of Equal Employment Opportunity

CASC recognises the EEO and Merit principles as vital to preventing nepotism and preferential treatment within Council, creating a fair and transparent decision-making structure, and ensuring that high calibre employees are recruited, retained and developed by CASC.

Where opportunities are being allocated by CASC (e.g. offer of employment or training), a recommendation and approval structure usually exists to ensure that the Chief Executive Officer and/or management justify and review the decision-making process (e.g. Application Form for recommendation and approval).

CASC's Recruitment and Selection documentation and processes reinforce the principles of EEO and Merit at each stage of the process. For instance, when a vacancy is filled, pre-determined Selection Criteria – based on the skills, knowledge and experience relevant to the position – are used to assess the suitability of each applicant, so that attributes such as age and gender are not

part of the decision-making process. A multi-member Selection Panel undertakes this selection process, and will feature a diversity of genders and racial and cultural backgrounds where possible.

CASC's Dispute Resolution Procedure will be promoted and utilised to ensure that all allegations of discrimination are treated seriously, and investigated promptly and impartially with reference to the appropriate legislation. All reporting and investigating of discrimination must be thoroughly documented, but handled in a confidential manner.

CASC will adopt measures to educate and raise awareness of the responsibilities of all employees and management in relation to this Policy, the EEO Management Plan, and associated documents and processes. Employees will receive their first formal training in these at their induction with CASC. Awareness of this Policy will also be encouraged by placing it prominently in workplaces, and making it available to employees on the intranet system.

Council will also strive to develop strategies for improving opportunities for EEO target groups, including strategic recruitment measures, and traineeship opportunities.

6.3 Behaviour Not Considered to be Discrimination

It is important to note that characteristics such as a person's demonstrated work ethic are valid considerations for employment-related decisions, and are not discriminatory. For instance, a person who appears to be a hard worker will be offered employment over a person who appears less willing to work (all other considerations being equal).

Legislation also allows for particular employment-related decisions to be based on a person's attribute (e.g. gender, age), for instance where there is a genuine occupational need for a certain attribute, or where an employee will be working in accommodation or residential child care provision.

Decisions and actions that are taken in order to protect workplace health and safety are also considered legitimate.

6.4 Failure to Comply

Where an employee is found to have contravened the requirements of this Policy or any associated legislation – including the undertaking of, or failure to report, discriminatory behaviour – they may be subject to disciplinary action in accordance with the Queensland Local Government Act 2009, CASC's Employee Code of Conduct, and Council's Discipline Policy and Procedure. The employee may also face investigation and action by an external agency or party as authorised by legislation (e.g. Anti-discrimination Commission; Human Rights and Equal Opportunity Commission; civil liability action).

This includes instances where an employee has been victimised for alleging discrimination by another employee.

6.5 Dispute Resolution Procedure

Employees have the right to lodge a grievance where they believe that inappropriate or unreasonable action has been initiated by CASC in response to suspected discrimination.

Where an employee is found to have made a knowingly false or vindictive claim regarding the alleged behaviour of another employee, management shall investigate the claimant's conduct and take appropriate action in accordance with Council's Employee Code of Conduct and Discipline Policy and Procedure.

7. DEFINITIONS

Attribute – for the purposes of this "Policy", "attribute" refers to gender, marital status, pregnancy, parental status, breastfeeding, age, race, impairment, religion, political belief or activity, trade union activity, and lawful sexual activity.

Councillor – elected representative.

Discrimination – occurs when a person, or a group of persons, is treated less favourably than another person or group of persons on the basis of an attribute possessed by one person or group (refer to “Attribute”); or association with, or relation to, a person identified on the basis of any of these attributes. Discrimination may occur even where the less favourable treatment was not considered by the offending person to be less favourable; or where a term not relevant to suitability for an opportunity (e.g. promotion) has been imposed on interested parties. Unlawful discrimination is as stipulated by the relevant State and Commonwealth legislation and instruments.

Employee – for the purposes of this Policy, “employee” will refer to any Council employees, including temporary and permanent employees, contractors, volunteers, work experience students and trainees; and to any representative of Council involved in employment-related decisions.

Equal Employment Opportunity – the principle that all employees and potential employees are to be provided with fair and equitable access to employment-related opportunities, regardless of attributes not justifiably relevant to the opportunity (refer to “Attribute”).

Equal Employment Opportunity Target Groups – those groups identified within legislation as experiencing high levels of discrimination and disadvantage in the workplace, and for whom local EEO strategies shall be developed to address that discrimination and disadvantage.

The EEO Target Groups are:

- Females;
- Persons of non-English speaking backgrounds (NESB);
- Persons of Aboriginal or Torres Strait Islander descent; and
- Persons with a physical, sensory, intellectual or psychiatric disability.

Merit Principle – where the suitability of persons for a recognised employment-related opportunity (e.g. promotion, training) is based on each person’s demonstrated skills, abilities, qualifications, knowledge, experience, work performance, conduct and behavioural attitude, and the relevance of such to the opportunity.

Sexual Harassment – where a person subjects another person to:

- an unsolicited act of physical intimacy;
 - makes an unsolicited demand or request for sexual favours from the other person;
 - makes a remark with sexual connotations relating to the other person; or
 - engages in any other unwelcome conduct of a sexual nature in relation to the other person
- where the behaviour has the effect of offending, intimidating or humiliating the person being harassed, regardless of whether this was the intention.

Victimisation – where a person (“respondent”) commits, or threatens to commit, an act to the detriment of another person (“complainant”) because the complainant:

- refused to do an act that would amount to a contravention of the *Queensland Antidiscrimination Act 1991*; or
- in good faith, alleged, or intends to allege, for the purposes of a proceeding under the *Queensland Anti-discrimination Act 1991*, that a person committed an act that would amount to a contravention of the *Queensland Anti-discrimination Act 1991*; or
- is, has been, or intends to be, involved in a proceeding under the *Queensland Antidiscrimination Act 1991* against any person; or

because the respondent believes that the complainant, or a person associated with, or related to, the complainant is doing, has done, or intends to do any of these.

Workplace – premises or a location where a Council employee, Councillor, contractor, volunteer or other person performs work on behalf of, or serves in a representative function for, Council. This includes workplaces that are temporary; Learning and Development activities (e.g. training) not undertaken on Council premises; and social functions which are related by nature or venue to Council (e.g. staff Christmas luncheon).

8. RELATED POLICIES AND PROCEDURES

Council's related Policies and Procedures are available from CASC's intranet site, or upon request from the Chief Executive Officer.

9. DATE REVIEWED: September 2012

10. NEXT REVIEW: September 2014

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