



CHERBOURG ABORIGINAL SHIRE COUNCIL

Harassment Prevention Policy

1. POLICY STATEMENT

This Policy states Cherbourg Aboriginal Shire Council's ("CASC") commitment to the prevention of harassment in the workplace to ensure a healthy and safe environment for all.

2. SCOPE

This Policy applies to all CASC employees, including temporary and permanent employees, Councillors, contractors, volunteers, work experience students, trainees and visitors.

3. POLICY OBJECTIVES

To clearly formulate the responsibilities of CASC and all employees in relation to the prevention of harassment in the workplace and the application of these responsibilities, including the establishment of a program featuring harassment identification and control measures.

4. BACKGROUND AND/OR PRINCIPLES

This Policy operates in conjunction with legislation governing the prevention of workplace and sexual harassment in all Council workplaces, and for the benefit of all CASC employees.

As stipulated by legislation, workplace harassment will be recognised and treated by CASC as a hazard to workplace health and safety. The Prevention of Workplace Harassment Code of Practice 2004 defines workplace harassment as when a person is subjected to repeated behaviour (other than behaviour amounting to sexual harassment) by a person, or group of persons, that:

- is unwelcome and unsolicited; and
- the person considers to be offensive, intimidating, humiliating or threatening; and
- a reasonable person would consider to be offensive, humiliating, intimidating or threatening.

Sexual harassment is governed by this Policy, and the Queensland Anti-discrimination Act 1991 and Sex Discrimination Act 1984. Sexual harassment is defined as when 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.

The Queensland Anti-discrimination Act 1991 also prohibits and penalises victimisation as defined in this Policy.

Discrimination in the workplace is governed primarily by Council's Equal Employment Opportunity Policy and the Queensland Anti-discrimination Act 1991.

5. LEGISLATIVE AUTHORITY

Queensland Local Government Act 2009
Work Health and Safety Act 2011
Queensland Anti-discrimination Act 1991
Sex Discrimination Act 1984.

6. GENERAL INFORMATION

6.1 Examples of Workplace Harassment

Workplace harassment can occur in any section or at any level of Council (e.g. Supervisor harassing an employee, or vice versa). Examples of behaviour that may be regarded as workplace harassment (where the behaviour is repeated or occurs as a pattern of behaviour), are:

- abusing a person loudly or constantly ridiculing them;
- sabotaging a person's work (e.g. supplying incorrect information; not passing on messages);
- maliciously excluding and isolating a person from workplace activities;
- persistent and unjustified criticisms, often about insignificant matters;
- humiliating a person through gestures, sarcasm, criticism and insults, or leaving offensive messages for a person on email or telephone;
- spreading gossip or false, malicious rumours about a person with an intent to cause the person harm.

6.2 Examples of Sexual Harassment

Under the *Queensland Anti-discrimination Act 1991*, the following actions (whether repeated or performed as a single incident) may constitute sexual harassment:

- physical contact such as patting, pinching or touching in a sexual way;
- unnecessary familiarity such as deliberately brushing against a person;
- sexual propositions;
- unwelcome and uncalled for remarks or insinuations about a person's sex or private life;
- suggestive comments about a person's appearance or body;
- indecent exposure.

6.3 Effects of Harassment

It is recognised that workplace and sexual harassment can be severely detrimental at the individual, team and organisational level. A victimised employee may suffer high levels of stress, leading to issues such as loss of self-esteem, anxiety disorders, and a reduced ability to perform their work. Possible effects at the team and organisational level include the breakdown of working relationships, reduced efficiency and productivity, a poor public image, and increased costs associated with employee counselling, grievance investigation, and recruitment and training of new workers.

6.4 Responsibilities for Harassment Prevention

The Chief Executive Officer has overall responsibility for the effective prevention of harassment within CASC's workplaces. 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 CASC and legislative harassment prevention stipulations and processes.

As Council is committed and obliged to protect the health and safety of all employees and visitors to the workplace, Council will establish and maintain a workplace harassment prevention program to identify and manage risks created by workplace harassment.

Similarly, all parties in the workplace (e.g. employees, contractors, volunteers) are responsible for complying with their obligations under the *Work Health and Safety Act 2011*. This includes the obligation to comply with Council's instructions regarding appropriate performance and conduct in the workplace, and to not wilfully place at risk the health and safety of any person at the workplace by participating in or condoning workplace harassment.

In accordance with this, employees are responsible for relating to other persons, including fellow employees, management and customers, in a professional and respectful manner. Employees are encouraged to avoid making overly familiar, offensive or intrusive comments – or comments that could be construed as such – to any person. Meanwhile, employees shall not participate in victimisation of a person – for instance, where a person has made a complaint alleging sexual harassment, 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 workplace and sexual harassment 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 harassment, and handling all allegations and investigations in a discreet and confidential manner.

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

In addition to these responsibilities, Supervisors, Managers and Chief Executive Officer are responsible for promoting the prevention of workplace and sexual harassment within their work areas, as well as appropriately investigating any suspected inappropriate performance or conduct by an employee.

6.5 Application of Harassment Prevention

To facilitate the achievement of Council and employee obligations under the Work Health and Safety Act 2011, CASC's workplace harassment prevention program will include measures for identifying, investigating and controlling workplace harassment using the risk management process. Accordingly, persons in control of a workplace (generally Supervisors and Managers) shall:

- identify hazards;
- assess the risks that may result because of the hazards;
- decide on control measures to prevent or control the level of the risks;
- implement control measures;
- monitor and review the effectiveness of the control measures.

This will include consulting with employees, the Workplace Health and Safety Officer, Workplace Health and Safety Representatives, and others as appropriate.

The identification of workplace harassment may occur through employees reporting observed or experienced behaviour to a higher authority (e.g. Supervisor) for investigation, or through the analysis of Employee Grievance Reports, staff absenteeism and turnover figures, exit interview results, Workplace Health and Safety incident reports, and the usage of CASC's Employee Assistance Program.

Control measures will include educating employees in their responsibilities towards workplace and sexual harassment prevention, and raising awareness of the nature and repercussions of harassment.

Awareness of this Policy will also be encouraged by placing it prominently in workplaces, and making it available to employees on the intranet system. CASC will also conduct ongoing training for employees with regard to their workplace health and safety obligations.

Council's Dispute Resolution Procedure will be promoted and utilised to ensure that all allegations of workplace and sexual harassment are treated seriously, and investigated promptly and impartially with reference to the Prevention of Workplace Harassment Code of Practice 2004 and relevant legislation. In instances of workplace harassment, the Workplace Health and Safety Officer and Workplace Health and Safety Representatives will also be involved. All reporting and investigating of workplace harassment must be thoroughly documented, but handled in a confidential manner.

Further control measures include Supervisors and Managers monitoring ineffective performance and conduct, the analysis of workplace incidents by the Workplace Health and Safety Officer, and the provision of a counselling service (Employee Assistance Program) for Councillors, employees and their immediate family members.

6.6 Behaviour Not Considered to be Harassment

Legitimate and reasonable management actions, which are undertaken in a reasonable way, do not constitute workplace harassment. This includes actions such as performance management, transfer or retrenchment, disciplinary actions, injury and illness processes, work allocation, and business processes (including restructuring).

Single incidents of unreasonable or inappropriate behaviour (e.g. verbal abuse, humiliation) are not considered to be workplace harassment for the purposes of this Policy, however they will still be investigated by management. A prompt and efficient response may prevent the incident from escalating into repeated behaviour (workplace harassment).

The initiation or attempted initiation of a personal relationship in the workplace will not be viewed as sexual harassment where the action is not repeated (if initially refused), and was conducted in a polite and respectful manner.

6.7 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, harassment – they may be subject to disciplinary action in accordance with the Queensland Local Government Act 2009, CASC's Employee Code of Conduct, and CASC'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. Workplace Health and Safety Queensland). This includes instances where an employee has been victimised for alleging harassment by another employee.

6.8 Dispute Resolution Procedure

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

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

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 CASC 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 CASC premises; and social functions which are related by nature or venue to CASC (e.g. staff Christmas luncheon).

8. RELATED POLICIES AND PROCEDURES

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

9. Resolution Number: 949

10. Date of Effect: 27th September 2012

11. Date of Review: 27th September 2014