

# Equal Employment Opportunity Policy

<p><b>Purpose</b></p>	<p>Darebin City Council (“Council”) values the diversity of its workforce and recognises the strengths this provides in meeting the needs of our community. It is committed to “taking proactive, reasonable and proportionate measures to eliminate discrimination, sexual harassment and victimisation”, in line with the Equal Opportunity Act 2010 (VIC).</p> <p>This Equal Opportunity Policy (the “Policy”) articulates what constitutes discrimination, harassment, bullying, occupational violence, sexual harassment, vilification and victimisation in the workplace. The Policy states Council’s positive duty to prevent discrimination from happening by addressing systemic causes of discrimination, sexual harassment, and victimisation, while promoting gender equality, cultural safety for Aboriginal staff and psychological safety for all.</p> <p>The purpose of this Policy is to:</p> <ul style="list-style-type: none"> <li>a) Provide a workplace that is free from discrimination, harassment, bullying, occupational violence, sexual harassment, vilification and victimisation;</li> <li>b) Create a working environment where all employees are treated with fairness, equality, dignity, and respect;</li> <li>c) Create a working environment where cultural safety for Aboriginal <sup>1</sup>staff and psychological safety for all are understood and upheld;</li> <li>d) Outline the principles of equal opportunity within Council’s policies and provide implementation requirements for Council’s procedures;</li> <li>e) Provide effective procedures for addressing and resolving grievances;</li> <li>f) Ensure all grievances are treated in a sensitive, fair, timely and confidential manner; and</li> <li>g) Protect employees from victimisation or reprisals for lodging a grievance or planning to do so.</li> </ul>
<p><b>Scope</b></p>	<p>This Policy applies to employees (full-time, part-time, fixed term or casual), Councillors, agency staff, contractors, consultants, volunteers, and visitors to Council.</p> <p>Visitors to Council include work experience students, customers, and members of the public in workplaces.</p>

<sup>1</sup> Aboriginal refers to both Aboriginal and Torres Strait Islander people.

<p><b>Definitions and Abbreviations</b></p>	<p><b>Protected Attributes</b> refers to the list of personal characteristics contained within Victorian anti-discrimination legislation. Discrimination against or harassment of an individual based on the Protected Attributes is unlawful.</p> <p><b>Manager</b> includes anyone with responsibility for staff, this includes team leaders, supervisors, coordinators, managers, general managers, and the CEO.</p> <p><b>Staff and/or employee</b> means full-time (permanent and temporary) and part-time (permanent and temporary), and casual staff employed by Council. For the purpose of this Policy, staff also refer to Councillors, agency staff, contractors, consultants, volunteers, and visitors to Council.</p> <p><b>Workplace</b> means a place of employment, where an employee performs tasks, jobs and/or projects on behalf of Council. It includes working from home and any work-related context when an employee is representing Council, including, but not limited to, conferences, work functions, team lunches and social gatherings, end of year parties or business trips.</p> <p><b>Merit</b> refers to the job-related qualities of an individual and includes demonstrable skills, abilities, aptitudes, qualifications and experience. When assessing “merit,” Council should be aware that what it looks like might vary based on factors such as gender, cultures (notably Aboriginal culture as per the <i>Charter of Human Rights and Responsibilities</i>), and abilities due to ‘special measures’ as detailed in the <i>Equal Opportunity Act 2010</i>.</p> <p><b>Systematic barriers</b> refer to obstacles in the social or administrative structure of an organisation or society that create or perpetuate a position of relative or historic disadvantage for a group. Systematic barriers may include policies, practices, behaviours, or norms that disadvantage a marginalised group.</p> <p><b>Positive duty</b> under the <i>Equal Opportunity Act 2010</i>, refers to the positive duty that organisations have to eliminate discrimination, sexual harassment, and victimisation as far as possible. This means that positive action is to be taken to identify and prevent these behaviours, and that all concerns and potential risks should be addressed, regardless of whether someone has taken action to formalise a complaint.</p> <p><b>Victimisation</b> is when a person is treated in a detrimental way because they made a complaint, or intend to make a complaint, in relation to behaviour prohibited under this Policy. Victimisation also includes detrimental treatment towards witnesses or potential witnesses to the alleged behaviour.</p>
<p><b>Policy</b></p>	<p><b>1. Equal Employment Opportunity</b></p> <p>Equal employment opportunity (EEO) is when all employees are treated fairly and equitably in all aspects of their employment. This means employees have equal access to employment opportunities based solely on their ability to fulfill the inherent requirements of the job, regardless of personal attributes.</p>

Council is committed to upholding the rights of all people, regardless of Aboriginality, sex, gender identity, cultural or racial background, sexuality, age, abilities, or other compounding factors that contribute to disadvantage.

Discrimination, harassment, bullying, occupational violence, sexual harassment, vilification and victimisation are unacceptable and unlawful. Council is committed to:

- Providing a work environment that fosters mutual respect and working relationships free of all forms of discrimination, harassment, bullying, occupational violence, sexual harassment, vilification and victimisation;
- Ensuring processes, systems and practices of Council are consistent with this Policy;
- Providing training to ensure employees are educated about their rights and responsibilities in relation to equal employment opportunity;
- Ensuring prospective employees are assessed on merit (including skills, abilities, aptitudes, qualifications and experience);
- Acknowledging the diversity of backgrounds, talent, potential and qualities of all employees;
- Ensuring employees, Councillors, agency staff, contractors, consultants, volunteers, visitors to Council and work experience students have access to information regarding the equal opportunity principles and procedures;
- Ensuring employees have access to the Grievance and Investigation process if they feel they have been subjected to discrimination, harassment, bullying, occupational violence, sexual harassment, vilification, victimisation, or any other breach of this Policy; and
- Ensuring that grievances are dealt with in a timely, sensitive and confidential manner.

It is the responsibility of Management and employees to create an inclusive work environment free from discrimination, harassment, bullying, occupational violence, sexual harassment, vilification and victimisation, where people feel physically, psychologically and culturally safe and respected.

## **2. Discrimination**

Discrimination generally refers to unjust or prejudicial treatment of people or a specific group of people, based on one or more of the personal attributes that are protected by the law.

Unlawful workplace discrimination under the general protections in the Fair Work Act (FW Act) occurs when an employer takes adverse action against an employee or prospective employee because of one or more of the protected attributes.

- **Protected Attributes**

Protected attributes refer to the list of personal characteristics contained within anti-discrimination legislation. Discrimination against, or harassment of, an individual based on the protected attributes is unlawful and will not be tolerated by Council. These characteristics include:

- Age;
- Breastfeeding;
- Disability;
- Employment activity;
- Gender identity;
- Industrial activity;
- Lawful sexual activity;
- Marital (or relationship) status;
- Parent or carer status;
- Physical features;
- Political belief or activity;
- Pregnancy;
- Profession, trade, or occupation;
- Race;
- Religious belief or activity;
- Sex;
- Sex characteristics;
- Sexual orientation;
- Spent criminal conviction;
- Expunged homosexual conviction (a person who has successfully applied to have their historic homosexual conviction removed from the record); and
- Personal association with someone who has, or is assumed to have, one of the above personal characteristics.

- **Direct, Indirect and Systemic Discrimination**

Unlawful discrimination refers to treating, or proposing to treat, an individual unfavourably because they have or are presumed to have a protected attribute. Discrimination may be considered direct or indirect:

- **Direct discrimination** refers to less favourable treatment because of a protected attribute. It can happen when people stereotype or make unfair assumptions about what people with certain personal characteristics can and cannot do.
- **Indirect discrimination** refers to situations when there is an unreasonable requirement, condition or practice that disadvantages a person, or a group of people, because of a personal characteristic.
- **Systemic discrimination** refers to historical, entrenched, structural and sometimes institutional patterns of behaviour or actions that affect certain people. These behaviours and actions may be part of organisational culture or may be reinforced by policies, procedures and unwritten practices.

- **Discrimination in Employment (including Special Measures)**

Council seeks to ensure that prospective employees are recruited on merit and that systemic barriers do not affect their opportunity for selection. In addition, Council seeks to ensure employees have an equal opportunity for selection, secondment, promotion, training and development opportunities based solely on demonstrated skills, abilities, aptitudes, qualifications, experience and performance, without any form of discrimination.

The *Victorian Equal Opportunity Act 2010* recognises that when we treat everyone the same it can have a different outcome, or unequal results for people who have suffered historical detriment and denial of opportunity based on personal characteristics. Under the ‘special measures’ section of the Act, Council can treat people differently in specific situations to address inequality, disadvantage or discrimination that a person may have experience based on Aboriginality, sex or gender, age, disability, ethnicity, gender identity, race, religion, sexual orientation, and other attributes. Specifically, Council reserves the right to limit employment offers to people with a personal characteristic that is protected in anti-discrimination legislation. Further guidance and information regarding special measures can be found within Council’s Recruitment & Selection Policy and Procedure.

- **Racial Discrimination**

Racial discrimination is where someone is treated less favourably, or not given the same opportunities as others in a similar situation, because of their race, skin colour, ancestry, nationality, or ethnic background.

Examples of racial discrimination include (but are not limited to):

- racial threats, abuse, insults, and taunts;
- racial pranks;
- comments about a person’s racial features or accent;
- inappropriate jokes related to race, whether in person or via email, text, social media or other media;
- derogatory remarks about a person’s skin colour or appearance;
- unwelcome remarks about a person’s cultural observances;
- offensive notices, photographs, cartoons, stickers, or statements on an employee notice board;
- racially abusive comments or songs;
- negative stereotyping of ethnic groups;
- cultural load, (i.e., the invisible workload knowingly or unknowingly placed on Aboriginal and Torres Strait Islander staff to provide cultural knowledge, education, and support)
- micro-aggressions (i.e., brief, subtle, verbal, or non-verbal slights, whether intentional or not, and seemingly harmless, that communicate a pattern of negative or derogatory attitudes towards culturally and racially minoritised groups).

- **Discrimination based on Gender Identity**

Gender identity discrimination is when a person is treated unfavourably, because of their gender-related identity, appearance, mannerisms, or other gender-related characteristics, including gender history. Examples of discrimination based on gender identity include:

- deliberately using incorrect names or pronouns (such as ‘he’ instead of ‘she’);
- invasive, inappropriate questioning about a person’s physical characteristics or their sex life (this may also constitute sexual harassment);
- any form of harassment or bullying, including mocking, ridiculing, or ignoring someone because of their gender identity;
- denying someone training and promotion opportunities because of their gender identity; and/or
- Changing the nature of someone’s job because of their gender identity (i.e., taking someone off customer service duties).

- **Harassment**

Harassment based on a protected attribute is a form of discrimination. Harassment is unwelcome behaviour that offends, humiliates or intimidates. Motive and intent are irrelevant, and a single incident can amount to unlawful behaviour. For example:

- when the woman didn’t get a pay rise because she was a woman it was sex discrimination; when the woman was called offensive derogatory names it was sex-based harassment;
- when the person with an assistance animal was denied a job, it was disability discrimination; when that person’s speech impediment was mocked and mimicked it was harassment on the basis of disability.

### **3. Racial and Religious Vilification**

Racial and religious vilification is public behaviour that incites or encourages hatred, serious contempt for, revulsion or serious ridicule against another person or group of people, because of their race or religion. It is behaviour that takes place in a public environment such as an office, a carpark, a community meeting or a café. It can also take place online, via social media and promotional material, in speeches, on radio or in articles and newspapers.

Public display of the Hakenkreuz (neo-Nazi swastika) is also prohibited given its role in inciting hatred and harm. Display of the symbol for educational purposes, and in religious and cultural contexts for Buddhist, Hindu, Jain and other faith communities is permitted.

The Council will not accept any forms of racial and religious vilification, as prohibited by the *Racial and Religious Tolerance Act 2001* (Vic).

#### **4. Sexual Harassment**

Sexual harassment is unwelcome conduct of a sexual nature. It occurs in circumstances where a reasonable person would anticipate the possibility of the person who is harassed being offended, humiliated, or intimidated.

Sexual harassment can happen at work or in any environment where work is undertaken including business trips. It can also happen in work-related environments such as conferences, work functions and via social media after hours in unpaid time. It can be a one-off incident, or it can happen more than once, involving conduct by one or more people.

Sexual harassment occurs when a person:

- makes an unwelcome sexual advance; or
- makes 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; and

that 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 in the workplace and in work related contexts. It can include (but is not limited to):

- inappropriate staring, leering, or loitering;
- over-familiarity and unwelcome physical contact;
- sexually suggestive comments or jokes, connotations, insults or taunts or sexual gestures;
- using suggestive or sexualised nicknames or references for a person;
- persistent unwanted invitations to go out on dates;
- sexual propositions;
- comments associated with a person's physical appearance
- questions about a person's private life and partner
- accessing or displaying material of a sexual nature in the workplace;
- communicating sexually explicit material in person or through phone calls, online interaction, email, social media, or text messages;
- stalking;
- indecent exposure, sexual assault and rape.

Sexual harassment does not extend to mutual attraction or private, consenting relationships, whether sexual or otherwise.

## 5. Bullying

- **Workplace Bullying**

Workplace bullying is repeated unreasonable behaviour directed toward a person or group of people that creates a risk to health and safety. Risk to health and safety includes a risk to the mental, physical, or psychological health of the person.

“Unreasonable behaviour” is behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine, or threaten.

Workplace bullying is verbal, physical, social, or psychosocial abuse. It can include (but is not limited to):

- behaviour that demeans, or makes an employee feel intimidated (frightened, offended, or humiliated);
- unreasonable criticism about the way an employee is undertaking their tasks;
- deliberately excluding, isolating, or separating an employee from co-workers or not including them in work activities;
- not sharing information that an employee requires for effective work performance or taking action to undermine;
- unreasonably overloading, removing responsibilities, or providing basic tasks that are not appropriate to an employee’s role; and
- deliberately changing work arrangements, such as rosters and leave to inconvenience or punish an employee.

- **What is Not Bullying?**

Managers have the right to direct how work is done. Bullying is not the legitimate and reasonable exercise of managerial direction. For example, bullying is not:

- a legitimate and reasonable performance management process;
- legitimate comments, constructive feedback, or advice on standards of work;
- deciding not to select someone for a promotion or work opportunity;
- disciplinary action in accordance with Council’s Disciplinary Procedure;
- requests for medical clearances;
- rostering or allocation of work that aligns to the operations of Council;
- implementing processes or practices such as restructuring or organisational change.

## 6. Occupational Violence

Occupational violence is any incident where an employee is abused, threatened, or assaulted in circumstances arising out of, or in the course of their employment. It can cause both physical and psychological harm, making it a risk to health and safety.

Occupational violence can be perpetrated by a co-worker (including a manager or direct manager), a customer, community member, a person known to the organisation or employee, or a stranger (intruder).

The term applies to all forms of physical, psychological, or cultural attacks or threats on an employee including (but not limited to):

- striking, kicking, pushing, shoving, punching, tripping, grabbing biting, spitting, spiking a person's drink or any other type of physical contact;
- yelling, swearing and threats of violence, including against family members;
- throwing objects or attacking with makeshift weapons such as tools, work equipment, furniture, rope or syringes;
- attacking with knives, guns, clubs, or other weapons;
- any form of indecent physical contact;
- verbal threats of violence against another person; and
- not upholding cultural safety.

Any instances of occupational violence must be reported immediately via Council's Incident Reporting System and will not be tolerated. Reports will be treated seriously and dealt with under Council's Disciplinary Procedure and/or through relevant authorities.

## 7. Gender-based Violence

Gender-based violence is the term for harmful acts directed toward an individual based on their gender. Gender-based violence can take many forms, including domestic violence, family violence, coercive control, sexual harassment, or emotional abuse.

Gender-based violence arises from a complex interaction between individual attitudes towards women, and social, institutional, and cultural practices and values across our society and communities. These attitudes and practices foster unequal and abusive power relations between men and women. Gender stereotypes often exist in broader cultures of violence. Therefore, gender equality is the key to preventing violence against women and all forms of gender-based violence.

Council acknowledges that violence in the workplace and in the community, in all its forms, is unacceptable and will not be tolerated. Council is committed to providing a workplace where employees are safe and supported, therefore

	<p>employees experiencing gender-based violence are encouraged to seek support from Management and People and Culture.</p> <p><b>8. Reasonable Adjustments</b></p> <p>‘Reasonable’ adjustments are changes to the work environment or conditions that allow people with disability to work safely and productively. Under the Equal Opportunity Act 2010, employers are required to make these adjustments for a person with disability.</p> <p>Council will make reasonable adjustments for an employee with disability unless the employee cannot adequately perform the genuine inherent requirements of the role even after the adjustments are made.</p> <p>To determine whether an adjustment is reasonable, Council will consider a range of factors including (but not limited to):</p> <ul style="list-style-type: none"> <li>• the employee’s circumstances;</li> <li>• the nature of the employee’s role or the role that is being offered;</li> <li>• the nature of the adjustment required to accommodate the employee’s disability;</li> <li>• the financial circumstances of Council;</li> <li>• the impact of making the adjustment on Council (i.e., financial impact, impact on efficiency, productivity, and customer service); and</li> <li>• the consequences for the employee of not making the adjustment.</li> </ul>
<p><b>Complaints &amp; Responsibilities</b></p>	<p><b>1. Grievances</b></p> <p>Grievances concerning Equal Employment Opportunity matters should be made in line with Council’s Grievance and Investigation Procedure. This can be located via Council’s intranet or by contacting the Direct Supervisor.</p> <p><b>2. Vicarious Liability</b></p> <p>Under anti-discrimination legislation, the employer and the alleged perpetrator of unlawful conduct may be held legally responsible for the discrimination or harassment that occurs in the workplace or work-related situations. An employer may not be vicariously liable if it can be proven that all reasonable steps to prevent the person from engaging in unlawful conduct were taken.</p> <p><b>3. Amendments</b></p> <p>From time to time, circumstances may arise leading to the need for minor administrative changes to this document. Where an update does not materially alter the intent of the document, such changes may be made at the discretion of the Chief Executive Officer.</p>
<p><b>Organisational Values</b></p>	<p>Council’s organisational values enable and support the effective design and application of this policy by guiding staff in the course of their work.</p>

	<p><b>We Make a Difference:</b> We are driven by our desire to make a difference for the people we serve. Our work is purposeful and creates a positive impact for the community. We are proud to work here. Our work matters.</p> <p><b>We are Accountable:</b> We are empowered to own and take responsibility for our actions. We follow through on our commitments and deliver on our promises. We make it happen.</p> <p><b>We are Collaborative:</b> We are united by a common purpose to serve the community. We work together, connecting within our teams and across the organisation. We are inclusive and collaborative. We are one.</p>	<p><b>We have Integrity:</b> We act with integrity and transparency in conversations and decision-making. Through open and clear communication, we build trust. We're honest. We walk the talk.</p> <p><b>We show Respect:</b> We are diverse, inclusive, respectful, and caring. We encourage everyone to have a voice and we listen to each other. We recognise one another's contributions and treat people fairly. We look after each other.</p> <p><b>We are Creative:</b> We are bold, courageous, and innovative. We try new things, experiment, and continuously improve. We are open-minded, creative, and forward-thinking. We are leaders.</p>
<b>Breach of Policy</b>	Breaches of policies are treated seriously. Any concerns about non-compliance should be reported immediately to the owner of this Policy.	

**GOVERNANCE**

<b>Parent Strategy/ Plan</b>	N/A
<b>Related Documents</b>	<p>This policy should be read in conjunction with Council's:</p> <ul style="list-style-type: none"> <li>• Council's Employee Code of Conduct</li> <li>• Employee Assistance Program (EAP) Information Sheet</li> <li>• Family Violence Policy</li> <li>• Flexible Working Policy</li> <li>• Recruitment &amp; Selection Policy</li> </ul> <p>These can be accessed via Council's intranet.</p>
<b>Supporting Procedures &amp; Guidelines</b>	<ul style="list-style-type: none"> <li>• Grievance and Investigation Procedure</li> <li>• Disciplinary Policy and Procedure</li> </ul>
<b>Industrial Frameworks</b>	<p><b>Federal Legislation</b></p> <ul style="list-style-type: none"> <li>• Fair Work Act 2009</li> </ul> <p><b>State Legislation</b></p> <ul style="list-style-type: none"> <li>• Equal Opportunity Act 2010</li> </ul>

	<ul style="list-style-type: none"> <li>• Local Government Act 2020</li> <li>• Gender Equality Act 2020</li> <li>• OHS Act 2004 Victoria</li> <li>• Workplace Injury Rehabilitation and Compensation Act 2013</li> <li>• Occupational Health and Safety Regulations 2007</li> <li>• Racial &amp; Religious Tolerance Act 2001</li> <li>• Victorian Charter of Human Rights and Responsibilities 2006</li> <li>• Privacy and Data Protection Act 2014</li> </ul>
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