

# SEXUAL HARASSMENT

## Purpose

The Shire of Plantagenet strongly supports the concept that every employee, elected member and member of the public employed by or engaged in business with the Council, has a right to do so in an environment which is free from sexual harassment and the Council is committed to providing such an environment.

To be read in conjunction with the Discrimination, Harassment and Bullying Management Directive.

## Definitions

**Sexual harassment** is any conduct of a sexual and/or sexist nature (whether physical, verbal or non-verbal) which is unwelcome and unsolicited and/or rejection of which may disadvantage a person in their employment or their life in general.

The following examples may constitute sexual harassment when they are considered and expressed as being offensive to an employee, elected member or member of the general public:

- Deliberate and unnecessary physical contact such as patting, pinching, fondling, kissing, brushing against or touching.
- Subtle or explicit demands for sexual activities or molestation.
- Intrusive enquiries into a person's private life.
- Uninvited and unwelcome jokes that have a sexual and/or sexist undertone.
- Unsolicited leers and gestures of a sexual nature and the display within the workplace of sexually offensive material.

## Policy

### 1. General

- 1.1. The Shire of Plantagenet considers sexual harassment to be an unacceptable form of behaviour which will not be tolerated and recognises that sexual harassment is unlawful.
- 1.2. The Shire of Plantagenet recognises that sexual harassment can undermine health, performance and self-esteem of individuals and has the potential to create a hostile and intimidating environment. The Council is therefore committed to any action which ensures the absence of sexual harassment in the workplace including general training of the workforce and specific training for officers identified to deal with complaints. Appropriate disciplinary action will be taken against any individual found to be engaging in such conduct.
- 1.3. Any complaints of sexual harassment made against any person associated with the Council will be viewed seriously, treated confidentially, and thoroughly investigated by appropriately trained persons.

- 1.4. Any person making a claim of sexual harassment will be protected at all times. No transferring of staff or face to face meetings between the complainant and the person whose behaviour has been found to be unwelcome will occur without the prior consent of both parties.
- 1.5. An employee whose health or work performance has been affected by sexual harassment will not have their employment status or conditions disadvantaged in any way, as a result thereof.
- 1.6. A formal complaints/grievance procedure follows and will be utilised to effectively resolve complaints of sexual harassment.

## 2. Complaints/grievance procedure

- 2.1. All complaints of sexual harassment will be treated confidentially and resolved promptly.
- 2.2. Wherever possible, the handling of complaints and resolution of such will be at the workplace where they occurred. Care will be taken throughout the investigation to ensure that neither the complainant nor the alleged harasser is victimised.
- 2.3. It is recognised that cases of sexual harassment may occur between supervisor and employee and as such, alternative methods of raising complaints are provided for by this procedure.
- 2.4. A complaint of sexual harassment may be lodged with any of the following persons:
  - a) Immediate Supervisor/Manager (except where this person is the alleged harasser);
  - b) Executive Manager (except where this person is the alleged harasser);
  - c) Chief Executive Officer (if the alleged harasser is an Executive Manager or the Shire President); and
  - d) Shire President (only if the alleged harasser is the Chief Executive Officer or Councillor).
- 2.5. A person receiving a complaint of sexual harassment will:
  - a) Decide, in consultation with the complainant, whether the matter can be resolved at this level or whether it should be referred to a more senior level of management. Assure the complainant that all details of the complaint will be treated confidentially and allow the person to decide on procedure;
  - b) Prepare a confidential report for the Chief Executive Officer on the nature of the complaint and ensure follow up reports are provided until the matter is resolved, (or, in the event that the complaint relates to the Chief Executive Officer, the report shall be prepared for the Shire President); and
  - c) Ensure no information regarding the complaint is discussed outside this procedure.
- 2.6. The person handling the complaint, whether it is the person who received the complaint, or a more senior person will, with the approval of the complainant:

- a) As soon as possible, advise the alleged harasser of the nature of the complaint and provide an opportunity for that person to comment. Where appropriate the alleged harasser should be invited to discontinue any perceived unwelcome behaviour;
- b) Advise the alleged harasser of the right to contact his/her Union or advocate for advice and representation;
- c) Advise the alleged harasser that no disciplinary action will be taken without the person being given the opportunity to be heard; and
- d) Keep simple, brief notes of the facts of the interviews held with both the complainant and alleged harasser.

2.7. If it is not possible to resolve the complaint, simply by discussion with the complainant and the alleged harasser:

- a) The matter will be investigated and where the complainant or the alleged harasser is a member of a Union, the Union may be party to the investigation; and
- b) All documentation relating to the complaint will remain confidential and will not be produced or made available for inspection, except on the order of a Court or a request from the Commissioner of Equal Opportunity.

2.8. During the period of the investigation of a case of serious sexual harassment:

- a) The investigation is to be conducted in a manner that is fair to all parties and all parties are to be given a fair and reasonable opportunity to put their case, to have witnesses in attendance and to respond to any proposed adverse findings that may be made against them;
- b) If requested by either party or by management, alternative working arrangements may be made; and
- c) Any reasonable request by either party for legal or union representation shall not be denied.
- d) Parties involved in the investigation will be offered the support of EAP and / or counselling / mediation services.

2.9. If, following investigation and resolution, a complaint is judged to have been proved:

- a) Remedial action will be taken; and
- b) A record of the detail of the remedial action will remain on the employee's personal file for a period of twelve months, whereupon the record will be destroyed unless otherwise decided by the Chief Executive Officer (or Shire President in the event that the complaint relates to the Chief Executive Officer).

2.10 If, following investigation, a complaint is judged to have been unproven, the complainant will be counselled and if it is considered that the complaint was made frivolously or maliciously, disciplinary action may be taken against the complainant.

2.11 Continued reference to a complaint and its aftermath could be considered as either a continuing or new incident of harassment.

2.12 While it is the Council's wish to attempt to deal with complaints of harassment internally, no employee will be penalised for bringing this complaint to

any appropriate external statutory body unless that complaint is ultimately proven to be made frivolously or maliciously.

Document Control			
Owner	Chief Executive Officer	Division	Corporate & Community Services
Reviewer	Executive Manager	Approval	Council
Document Compliance			
Legislation	<ul style="list-style-type: none"><li>• Sex Discrimination Act 1984</li><li>• Racial Discrimination Act 1975</li><li>• Disability Discrimination Act 1992</li><li>• Age Discrimination Act 2004</li><li>• Australian Human Rights Commission Act 1986</li><li>• Equal Opportunity Act 1984 (WA)</li><li>• Industrial Relations Act 1979 (WA)</li><li>• Work Health and Safety Act 2020 (WA)</li><li>• Work Health and Safety (General) Regulations 2022 (WA)</li></ul>		
Other	<ul style="list-style-type: none"><li>• Code of Practice: Workplace Bullying (2006)</li><li>• Code of Practice: Workplace Behaviour (WA) (2022)</li><li>• Code of Practice: Managing Psychosocial Hazards at Work (2022)</li></ul>		
Document Management			
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