



# WORKPLACE BULLYING POLICY AND PROCEDURES

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## 1. INTRODUCTION

Narromine Shire Council (NSC) is committed to the prevention of workplace bullying. NSC considers bullying an unacceptable behaviour and it will not tolerate it under any circumstances.

Under the NSW Work Health and Safety Act 2011 and the Fair Work Act 2009, NSC has a responsibility to do everything reasonably practicably possible to eliminate or reduce risks to a worker's health and safety. All workers and Officials have a right to a workplace that is free from bullying. Workers and Officials must also accept responsibility for their actions towards others in the workplace and must not take part in any bullying.

## 2. SCOPE

This policy applies to:

- a) All employees of NSC - permanent, part-time, and casual.
- b) All Officials including Councillors.
- c) Contractors and Volunteers

## 3. DEFINITIONS

**Contractor:** means a person or body, and the individual members of that body, who has entered into a contractual relationship, or an arrangement in the nature of a contract, with NSW for the provision of works, goods or services.

**Council:** means Narromine Shire Council

**Councillor:** means a person elected or appointed to civic office and includes a Mayor (as per NSC Code of Conduct).

**Council Official:** includes Councillors, Administrators, members of staff, independent conduct reviewers, members of council committees including a conduct review committee and delegates of Council (as per NSC Code of Conduct)

**Delegate:** means a person (other than a Councillor or a member of staff of a Council) or a body, and the individual members of that body, to whom a function of the Council is delegated (as per NSC Code of Conduct)

**Employee:** means a member of staff of Council (permanent, part-time, or casual)

**Health:** means physical and psychological health (as per WH&S Act 2011)

**Officer:** means an officer within the meaning of Section 9 of the Corporations Act 2001 other than a partner of a partnership, or an officer of the Crown, or an officer of a public authority, other than an elected member of a local authority acting in that capacity (as per WH&S Act 2011).

**Workplace:** means a place where work is carried out for NSC and includes any place where a worker goes, or is likely to be, at work. Place includes a vehicle, vessel, aircraft, or other mobile structure (as per WH&S Act 2011).

**Volunteer:** means a person who is acting on a voluntary basis (irrespective of whether the person receives out-of-pocket expenses) (as per WH&S Act 2011).

**Worker:** means a person who carries out work in a capacity for NSC including work as an employee; a contractor or subcontractor; an employee of a contractor or subcontractor; an employee of a labour hire company assigned to work in NSC; an outworker, an apprentice or trainee; a student.

#### **4. MANAGEMENT COMMITMENT**

The risk of workplace bullying can be minimised so far as is reasonably practicable by creating and promoting a positive work environment where everyone is treated fairly and with respect.

NSC is dedicated to demonstrated senior management commitment in identifying, preventing and responding to workplace bullying as one of the key factors for preventing unreasonable behaviour and managing risks. Senior Management will model positive values and standards for workplace behaviour through their own conduct, to send a clear message to workers that NSC will not tolerate unreasonable behaviour.

Senior Management will demonstrate commitment by:

- modelling respectful behaviours at all times
- promoting and implementing this Workplace Bullying policy and procedures which clearly identifies the expected behaviours and consequences of not complying.
- dealing with unreasonable behaviour as soon as they become aware of it
- ensuring that reports of bullying are taken seriously and properly investigated, and
- consulting with workers.

#### **5. EXPECTED WORKPLACE BEHAVIOURS**

Under work health and safety laws, workers and other people at our workplace must take reasonable care that they do not adversely affect the health and safety of others.

NSC expects Council Officials to:

- Behave in a responsible and professional manner.
- Treat others in the workplace with courtesy and respect
- Listen and respond appropriately to the views and concerns of others, and
- Be fair and honest in their dealings with others.
- Follow the provisions of the Code of Conduct.

This Policy applies to behaviours that occur:

- In connection with work, even if it occurs outside normal working hours. This includes any communication through email, text messaging or any other form of multimedia communication,
- During work activities, for example when dealing with clients, contractors, Councillors, officers, committee members, and volunteers.
- At work-related events, for example at conferences and work-related social functions, and
- On social media where workers interact with colleagues or clients and their actions may affect them either directly or indirectly.

#### **6. RESPONSIBILITIES (DUTIES)**

Everyone in the workplace has a work health and safety duty and can help to ensure workplace bullying does not occur.

The following table (Table 1) sets out the various duties in relation to Workplace Bullying with reference to relevant sections of the Work Health & Safety Act 2011.

**Table 1: Duties in relation to Workplace Bullying**

Who	Duties
Person conducting a business or undertaking (Section 19)	A person conducting a business or undertaking has the primary duty of care under the WHS Act to ensure, so far as is reasonably practicable, that workers and other people are not exposed to health and safety risks arising from the business or undertaking. This duty includes, so far as is reasonably practicable: <ul style="list-style-type: none"> <li>• Providing and maintaining a work environment that is without risks to health and safety.</li> <li>• Providing and maintaining safe systems of work</li> <li>• Monitoring the health and safety of workers and the conditions at the workplace to ensure that work related illnesses and injuries are prevented.</li> <li>• Providing appropriate information, instruction, training or supervision to workers and other people at the workplace to allow work to be carried out safely.</li> </ul>
Officers (Section 27)	Officers, such as company directors, must exercise due diligence to ensure the business or undertaking complies with the WHS Act and Regulations. This includes taking reasonable steps to ensure the business or undertaking has and uses appropriate resources and processes to eliminate or minimize risks associated with workplace bullying.
Workers (Section 28)	<i>Workers including employees, contractors, subcontractors, labour hire employees, outworkers, apprentices, or volunteers have a duty to:</i> <ul style="list-style-type: none"> <li>• <i>Take reasonable care for their own health and safety.</i></li> <li>• <i>Take reasonable care that their acts or omissions do not adversely affect the health and safety of other people.</i></li> <li>• <i>Comply, so far as is reasonably practicable, with any reasonable instruction given by the person conducting a business or undertaking, and</i></li> <li>• <i>Co-operate with any reasonable policies and procedures of the person conducting the business or undertaking, for example a workplace bullying policy.</i></li> </ul>
Others (Section 29)	Other people at a workplace, such as visitors and clients, have similar duties to that of a worker and must: <ul style="list-style-type: none"> <li>• Take reasonable care for their own health and safety.</li> <li>• Take reasonable care that their acts or omissions do not adversely affect the health and safety of other people, and</li> <li>• Comply, so far as is reasonably practicable, with any reasonable instruction given by the person conducting a business or undertaking.</li> </ul>

## 7. WHAT IS WORKPLACE BULLYING?

**Workplace bullying** is repeated, and unreasonable behaviour directed towards a worker, officer or a group of workers or others that creates a risk to health and safety.

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

**Unreasonable behaviour** means behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating, or threatening.

Examples of behaviour, whether intentional or unintentional, that may be workplace bullying if they are **repeated, unreasonable** and **create a risk to health and safety** include but are not limited to:

- abusive, insulting, or offensive language or comments
- aggressive and intimidating conduct
- belittling or humiliating comments
- victimisation
- practical jokes or initiation
- unjustified criticism or complaints
- deliberately excluding someone from work-related activities
- withholding information that is vital for effective work performance.
- setting unreasonable timelines or constantly changing deadlines
- setting tasks that are unreasonably below or beyond a person's skill level.
- denying access to information, supervision, consultation, or resources to the detriment of the worker
- spreading misinformation or malicious rumours, and
- changing work arrangements such as rosters and leave to deliberately inconvenience a particular worker or workers.

If the behaviour involves violence, for example physical assault or the threat of physical assault, it will be reported to the police.

## **8. WHAT IS NOT WORKPLACE BULLYING?**

### **8.1. Reasonable management action taken in a reasonable way**

Reasonable management action taken by managers or supervisors to direct and control the way work is carried out is not workplace bullying if the action is effectively carried out in a lawful and reasonable way, taking the particular circumstances into account.

Examples of reasonable management actions are as follows:

- Setting realistic and achievable performance goals, standards, and deadlines
- Allocating work to an employee
- Fair and appropriate rostering and allocating of working hours.
- Transferring workers to another area or role at a similar level and with similar skill requirements
- Deciding not to select a worker for promotion where a fair and transparent process is followed.
- Informing a worker about unsatisfactory work performance in an honest fair and constructive manner
- Informing a worker about unreasonable behaviour in an objective and confidential way
- Implementing organisational changes or restructuring
- Implementing performance management processes

## **8.2. Unlawful discrimination and sexual harassment**

Unreasonable behaviour may involve unlawful discrimination or sexual harassment which, by itself, is not bullying.

Discrimination on the basis of a protected trait in employment may be unlawful under anti-discrimination, equal employment opportunity, workplace relations and human rights laws. Generally, unlawful discrimination is where a person or group of people are treated unfairly or less favourably than others because they have a particular characteristic or belong to a particular group of people. Protected traits include race, colour, sex, sexual orientation, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction, or social origin. For example, it would be unlawful for an employer not to employ or promote a woman because she is pregnant or may become pregnant.

The WHS Act prohibits a person from engaging in 'discriminatory conduct' for a 'prohibited reason'. For example, it is unlawful for a person to terminate the employment of a worker for raising health and safety concerns or performing legitimate safety-related functions in relation to their workplace.

Generally, sexual harassment includes unwelcome sexual advances, requests for sexual favours or other unwelcome conduct of a sexual nature that could be expected to make a person feel offended, humiliated, or intimidated.

## **8.3. Workplace Conflict**

Differences of opinion and disagreements are generally not workplace bullying. People can have differences or disagreements in the workplace without engaging in repeated, unreasonable behaviour that creates a risk to health and safety. Some people may also take offence at action taken by management, but that does not mean that the management action was unreasonable. However, in some cases conflict that is not managed may escalate to the point where it becomes workplace bullying.

## **9. HOW CAN WORKPLACE BULLYING OCCUR?**

Workplace bullying can be carried out in a variety of ways including through verbal or physical abuse, through email, text messages, internet chat rooms, instant messaging, or other social media channels. In some cases, workplace bullying can continue outside of the workplace.

Workplace bullying can be directed at a single worker or group of workers and be carried out by one or more workers. It can occur:

- sideways between workers
- downwards from supervisors or managers to workers, or
- upwards from workers to supervisors or managers.

Workplace bullying can also be directed at or perpetrated by other people at the workplace such as Councillors, clients, customers, and members of the public.

## **10. THE IMPACT OF WORKPLACE BULLYING**

Workplace bullying can be harmful to the person experiencing it and to those who witness it. The effects will vary depending on individual characteristics as well as the specific situation and may include one or more of the following:

- distress, anxiety, panic attacks or sleep disturbance
- physical illness, for example muscular tension, headaches, fatigue, and digestive problems

- loss of self-esteem and self-confidence
- feelings of isolation
- deteriorating relationships with colleagues, family, and friends
- negative impact on work performance, concentration and decision making ability.
- depression, and
- thoughts of suicide.

Workplace bullying can also have a negative impact on the work environment and incur direct and indirect costs for a business, including:

- high staff turnover and associated recruitment and training costs
- low morale and motivation
- increased absenteeism
- lost productivity.
- disruption to work when complex complaints are being investigated.
- costs associated with counselling, mediation and support.
- costly workers' compensation claims or legal action, and
- damage to the reputation of the business.

## **11. MANAGING THE RISK OF WORKPLACE BULLYING**

Health and safety risks in a workplace must be eliminated so far as is reasonably practicable. If this is not possible, the risks must be minimised so far as is reasonably practicable. The risk of workplace bullying can be minimised by taking a pro-active approach that involves:

- early identification of unreasonable behaviour and situations likely to increase the risk of workplace bullying occurring.
- implementing control measures to manage the risks, and
- monitoring and reviewing the effectiveness of the control measures.

## **12. PREVENTING WORKPLACE BULLYING**

Processes that may help identify workplace bullying or the potential for it to occur include:

- regular consultation with workers and, the NSC Health & Safety (H&S) committee, including discussions aimed at finding out if bullying is occurring or if there are factors likely to increase the risk of workplace bullying.
- seeking feedback when workers leave the business, for example holding exit interviews
- seeking regular feedback from managers, supervisors or other internal and external parties
- monitoring incident reports, workers compensation claims, patterns of absenteeism, sick leave, staff turnover and records of grievances to establish regular patterns or sudden unexplained changes, and
- recognising changes in workplace relationships between workers, customers, and managers.

Research indicates that there are a number of factors which may increase the risk of workplace bullying occurring. The following characteristics could help alert to potential WHS risks in the workplace:

- presence of work stressors –
  - high job demands.
  - limited job control
  - organisational change, such as restructuring or significant technological change
  - role conflict and ambiguity



- job insecurity
- an acceptance of unreasonable workplace behaviours or lack of behavioural standards, and
- unreasonable expectations of clients or customers.
- leadership styles –
  - autocratic behaviour that is strict and directive and does not allow workers to be involved in decision making.
  - behaviour where little or no guidance is provided to workers or responsibilities are inappropriately and informally delegated to subordinates, and
  - abusive and demeaning behaviour that may include inappropriate or derogatory language, or malicious criticism and feedback.
- systems of work –
  - lack of resources
  - lack of training
  - inappropriate work scheduling, shift work and poorly designed rostering, and
  - unreasonable performance measures or timeframes.
- *poor workplace relationships* –
  - poor communication
  - isolation
  - low levels of support, or
  - work group hostility.

### **13. MONITORING**

Once control measures have been implemented, they will be monitored and reviewed to ensure they are effective in managing the risk of workplace bullying. If the control measures do not work the situation will be analysed further to determine how to fix the problem.

Monitoring will be undertaken through regular scheduled discussions at management meetings, staff meetings and Work Health Safety (WHS) committee meetings.

Regular monitoring of the incidence of grievances, staff turnover and use of employee assistance programs will occur. Bullying incident reports and findings will be reviewed to identify any trends.

Policies and procedures will be reviewed regularly. A review can be conducted at any time, but it will be conducted at least:

- when an instance of workplace bullying has been substantiated
- at the reasonable request of the WHS committee
- when new or additional information or research about workplace bullying becomes available
- where a review of records indicates reports of workplace bullying are increasing, or
- according to a scheduled review date.

Information for a review will be obtained from the same sources used when identifying the potential for workplace bullying, for example:

- confidential surveys
- exit interviews, or
- records of sick leave.

Results of reviews and suggested improvements will be reported to Directors, Managers, and the WHS committee.

#### **14. CONSULTATION AND TRAINING**

In accordance with Section 19(3)(f) of the WHS Act 2011, Council will consult, inform, train and instruct all involved in the policy and procedures by undertaking the following:

- Developing a Workplace Bullying Policy and Procedures by the WHS and HR Staff for approval by the General Manager.
- Submit to WHS Committee and ELT, then Council, for consideration and adoption thereafter to all Staff to note by email and hard copy.
- All Officers, Workers and Councillors will be trained in the Policy & Procedures.
- All Officers and Supervisors will receive written instructions on how they are to ensure the Policy and Procedures are followed, enforced and assistance provided to Staff with concerns.
- All new Officers, Workers and Councillors will be trained in their WHS responsibilities including adherence to the WHS Policy and Procedures and the Code of Conduct as part of their induction process as per Section 27/29 of the WHS Act 2011.
- Information about workplace bullying can be given to workers and officers in several ways – talking directly, toolbox / staff meetings, Council newsletters, posters and emails.

#### **15. CONSEQUENCES OF BREACHING THIS POLICY**

Appropriate disciplinary action may be taken against a person who is found to have breached this policy. The action taken will depend on the nature and circumstance of each breach and could include:

- A verbal or written apology
- One or more parties agreeing to participate in counselling or training.
- A verbal or written reprimand, or
- Transfer, demotion, or dismissal of the person engaging in the bullying behaviour.

Breaches of Council policy by Council Officials (including Councillors) under Council's Code of Conduct may result in censure; requiring the person to apologise to any other person or organisation adversely affected by the breach; prosecution of any breach of law, removing or restricting of the person's delegation; or removing the person from membership of the relevant council committee.

## PROCEDURES FOR RESPONDING TO WORKPLACE BULLYING

### 16. HOW TO RESPOND TO A REPORT OF WORKPLACE BULLYING

Workplace bullying may be identified and reported by those subjected to the behaviour or by witnesses. A person can raise or report workplace bullying verbally or in writing by:

- informing a supervisor, manager, or Human Resources
- informing their H&S committee or union representative and asking them to make a report on their behalf, or
- using other established reporting procedures.

If the alleged bully is a Manager, the complaint should be reported either verbally or in writing to the Director of that Manager. If the alleged bully is a Director, the complaint should be reported to the General Manager. If the alleged bully is an employee or a contractor or volunteer, the complaint should be reported to the employee's Manager. If the alleged bully is a Councillor (including Mayor or Deputy Mayor), the complaint should be made to the General Manager. If the complainant is the General Manager, alleging bullying by a Councillor, the complaint should be made to the Mayor. If there is an alleged bullying complaint from the General Manager against the Mayor, it should be reported to the Deputy Mayor who will liaise with the Acting General Manager at the time, to assist with the complaint.

A manager or supervisor may also identify a risk of workplace bullying through changes in the workplace, for example increased absences, changes in workers' performance or low staff morale.

Workplace bullying is best managed by responding as soon as possible after suspecting or becoming aware there is a problem. Responses to reports of workplace bullying will vary depending on the situation, the number of parties involved and the size and structure of the workplace.

In the first instance, attempts should be made to resolve the situation within the workplace, regardless of whether workplace bullying has occurred. Where internal processes are not effective, complainants may refer the complaint to external agencies. A flowchart to assist in applying the information in this Procedure is provided at Appendix A.

Consider the following when responding to workplace bullying:

- **Is the behaviour bullying or not?**  
The type of behaviour occurring may need to be determined to develop an appropriate response. For example, if the behaviour involves physical violence or what appears to be unlawful discrimination or sexual harassment, whether it is repeated or not, it will require a different response to workplace bullying.
- **Does the situation warrant measures to minimise the risk of ongoing harm?**  
If necessary interim measures should be taken to minimise the risk to health or safety. This may involve temporarily reassigning tasks, separating the parties involved or granting leave.

- **Do I have a clear understanding of the issues?**  
Seek additional information to ensure a clear understanding of the parties involved and the specific behaviour or behaviours thought to be unreasonable. This may be achieved by speaking to others who may have observed or participated in the behaviour.
- **Do I need additional information or assistance?**  
People with specialist roles in the organisation or external specialists may be able to provide information, help identify the issues and develop potential responses to address the behaviour. Additionally, an individual may wish to seek information or assistance that allows for objectivity and affords all parties due process.
- **Can the matter be safely resolved between the parties or at a team level?**  
In some situations, it may be possible to use a no-blame conciliatory approach to help individuals reach an outcome that will ensure the unreasonable behaviour ceases. A proposed resolution should be discussed with the person who reported the behaviour to check they are comfortable with it.
- **Should the matter be progressed to an investigation?**  
Depending on the severity or complexity, some matters may need to be investigated.

A person may choose to resolve issues by self-managing the situation. This usually involves telling the other person the unreasonable behaviour is not welcome and asking for it to stop. If an individual does not feel safe or confident with approaching the other person, they can seek the assistance of a Supervisor or Manager, Manager Human Resources or other appropriate person.

Anyone asked to act on behalf of an individual should use a confidential and non-confrontational approach.

In most circumstances, the person who is alleged to have perpetrated the bullying behaviour must be notified as soon as possible of the report and be given a chance to explain his or her version of events. They should be treated as innocent until the reports are proven to be true.

Providing training to workers about appropriate standards, expected behaviours and workplace bullying may help workers understand how to deal with issues such as conflict, confidentiality, and related issues.

### **16.1. The role of Supervisors and Managers**

Supervisors and Managers should intervene when they observe unreasonable behaviour in their work teams or if they are requested to intervene by a member of their team. If a Supervisor or Manager approaches an individual directly about their behaviour, they should record the actions taken. Supervisors should know how and when it is appropriate to seek advice or to escalate an issue.

## **17. PRINCIPLES WHEN RESPONDING TO REPORTS OF WORKPLACE BULLYING**

Effectively responding to issues when they are raised can stop the situation happening again and reinforce to workers that workplace bullying is treated seriously and consistently by the organisation. The following table sets out the principles that should be applied when handling reports of workplace bullying.

**Table 2 - Responding to workplace bullying**

Response	Measure
Act promptly	Reports should be responded to quickly, reasonably and within established timelines. Relevant parties should be advised of how long it will likely take to respond to the report and should be kept informed of the progress to provide reassurance the report has not been forgotten or ignored.
Treat all matters seriously	All reports should be taken seriously and assessed on their merits and facts.
Maintain confidentiality	The confidentiality of all parties involved should be maintained. Details of the matter should only be known by those directly concerned in the complaint or in resolving it.
Ensure procedural fairness	<p>The person who is alleged to have perpetrated the bullying behaviour should be treated as innocent unless the reports are proven to be true. Reports must be put to the person they are made against, and that person must be given a chance to explain his or her version of events.</p> <p>The person reporting the bullying should be respectfully listened to and their report treated as credible and reliable unless conclusively proven otherwise.</p> <p>The opportunity to have decisions reviewed should be explained to all parties.</p>
Be neutral	Impartiality towards everyone involved is critical. This includes the way people are treated throughout the process. The person responding to the report should not have been directly involved and they should also avoid personal or professional bias.
Support all parties	Once a report has been made, the parties involved should be told what support is available, for example employee assistance programs, and allowed a support person to be present at interviews or meetings e.g. health and safety representative, union representative or work colleague.
Do not victimise	It is important to ensure anyone who reports workplace bullying is not victimised for doing so. The person accused of workplace bullying and witnesses should also be protected from victimisation.
Communicate process and outcomes	All parties should be informed of the process, how long it will take and what they can expect will happen during and at the end of the process. Should the process be delayed for any reason, all parties should be made aware of the delay and advised when the process is expected to resume. Finally, reasons for actions that have been taken and, in some circumstances, not taken should be explained to the parties.

Response	Measure
Keep records	<p>The following should be recorded:</p> <ul style="list-style-type: none"> <li>• the person who made the report</li> <li>• when the report was made</li> <li>• who the report was made to.</li> <li>• the details of the issue reported.</li> <li>• action taken to respond to the issue, and</li> <li>• any further action required – what, when and by whom.</li> </ul> <p>Records should also be made of conversations, meetings and interviews detailing who was present and the agreed outcomes.</p>

## **18. BALANCING CONFIDENTIALITY AND TRANSPARENCY**

Both confidentiality and transparency are essential to maintain the integrity of the policies and procedures used to manage workplace bullying.

### **18.1. Confidentiality**

Failure to maintain confidentiality can lead to workers mistrusting the reporting process. Confidentiality should be considered in what information, how and to who it is communicated. To limit breaches of confidentiality, measures include:

- discussing sensitive or private information with third parties only if they need to know and with the permission of those involved.
- secure storage, coding and access to files and documentation on the workplace bullying report.
- conducting discussions in a private location, and
- choosing appropriate times or locations for printing, copying, or disposing of materials.

It is important the parties involved in the complaint are instructed:

- to maintain confidentiality of the materials presented, discussed, or submitted, and
- on how to maintain confidentiality, for example who they can and cannot speak to about the matter.

Ensuring confidentiality should not prevent the parties involved from seeking support, such as through an employee assistance program, or bringing along a support person to interviews or meetings.

### **18.2. Transparency for the parties involved**

Transparency of the report handling process promotes accountability. It allows the parties involved to be fully informed about how the report is going to be handled. The parties will be made aware of:

- the steps and estimated timeframes for resolving or investigating the workplace bullying report.
- the name and details of a contact person
- progress reports and an explanation for delays
- the outcome of actions taken and the reasons for decisions made, and
- the right of review if the parties are not satisfied with the outcome.

### **18.3. Transparency for NSC**

NSC will show it is committed to managing the risk of workplace bullying by highlighting activities that have been or will be undertaken to resolve workplace bullying. Generic information on workplace bullying reports and how these were handled will be provided to workers through the H&S Committee.

Information that will be considered for disclosure may include:

- the number of reports received and the number of reports resolved.
- time taken to complete investigations.
- whether investigations were conducted internally or externally, and
- the general nature of the outcomes.

## **19. INVESTIGATION**

Workplace bullying reports of a serious or complex nature should always be investigated. Serious bullying reports may include those:

- covering a long period of time
- involving multiple workers
- where the alleged behaviours are in dispute
- involving alleged bullying by senior managers, or
- where other processes have not been able to resolve the matter.

The aim of an investigation is to investigate the circumstances of the matter and work out what has occurred.

Once it has been determined that an investigation will be undertaken, the appropriate Supervisor will decide on the scope and process including:

- who will conduct the investigation?
- details of the behaviour that will be investigated.
- how the investigation will be conducted and likely timeframes
- what the investigation aims to achieve
- what support needs to be provided to the parties involved, and
- how outcomes of the investigation will be communicated.

For investigation of Code of Conduct complaints i.e. a breach of this policy, please refer to Councils' Code of Conduct and Procedures

### **19.1. Who should conduct the investigation**

Investigations should always be carried out by an unbiased person who has experience and knowledge in dealing with workplace bullying matters.

If being led internally it is important to ensure all parties have confidence in the neutrality of the investigator and they are suitably qualified to lead the investigation. If this is not possible an external investigator is recommended. The investigator should be impartial, objective and focus on whether a report of workplace bullying is substantiated or not, or if there is insufficient information to decide either way.

### **19.2. Informing the parties of the investigation**

To ensure the investigation process is conducted in a fair, objective, and timely way it is important to inform the parties about:

- who is conducting the investigation?
- conflicts of interest—these should be declared before the investigation proceeds.
- their obligations and the obligations of the investigator regarding confidentiality
- their right to seek independent advice and representation.
- the expected timeframes of the investigation
- how the issue will be investigated e.g. interviews with the parties and witnesses or viewing documentary evidence
- who will receive copies of statements and records of interviews (if obtained)

- who can be present at interviews
- what support mechanisms will be in place for each party, including any interim measures to ensure the health and safety of the parties during the investigation process, and
- possible outcomes (e.g. disciplinary action) and rights of appeal and review.

### **19.3. Outcomes of an investigation**

Where the investigator is not the decision-maker, at the end of an investigation, the investigator should provide an objective report to NSC who will then use the findings and recommendations of the investigation to make a decision. The report should outline:

- the report that was investigated
- the investigation process.
- all relevant evidence (including who was interviewed), and
- the findings of the investigation as to whether the alleged bullying occurred.

The findings of the investigation should then be communicated to the parties involved.

### **19.4. Consequences**

If a report is substantiated, actions should be taken consistent with relevant policies and procedures. The actions may be different in each situation and depend on the severity of the workplace bullying. Such actions may include:

- directing the person to cease the behaviour and gaining a commitment that the behaviour will not be repeated and monitoring this over time.
- providing information to workers to raise the awareness of workplace bullying and standards of behaviour expected.
- providing training or coaching e.g. leadership, communication and interpersonal skills and conflict management
- providing counselling support
- reviewing the workplace bullying policy and prevention measures
- addressing organisational issues that may have contributed to the behaviour occurring.
- requesting an apology
- providing a verbal or written warning
- transferring a worker or workers to another work area, or
- demotion, dismissal, or other actions subject to workplace relations laws.

It is likely a combination of strategies will be appropriate to prevent bullying behaviour from re-occurring.

If an investigation finds a report of workplace bullying is not substantiated, assistance may still need to be provided to resolve outstanding issues. This may involve mediation, counselling or changing working arrangements. Mediation is a voluntary process where an impartial third party, preferably a trained mediator, assists the parties put their respective cases before each other. The role of a mediator is to help both parties understand each other's perspective and to try to find an agreement the parties are willing to abide by.

If the report is found to be vexatious or malicious, disciplinary action or counselling may be considered against the person who made the report. Any action taken should be consistent with NSC policies on misconduct and disciplinary action.



## **19.5. Mediation**

The responsible Manager or Director will speak to the parties involved as soon as possible, gather information, and seek a resolution to satisfactorily address the issue for all parties. This may involve mediation should the complainant be comfortable with meeting the alleged bully to voice their concerns. This will be an independent process where a resolution is sought in a safe environment for both parties.

However, mediation may not be appropriate in the following circumstances:

- Where there is an imbalance of power between the alleged bully and the person reporting the bullying.
- Where the bullying is found to have been of a significant nature.
- Where the alleged victim feels intimidated by the alleged bully.

## **20. WHAT TO DO IF YOU ARE ACCUSED OF WORKPLACE BULLYING**

Being accused of workplace bullying behaviour can be upsetting and come as a shock but it is important to be open to feedback from others, and if necessary, be prepared to change your behaviour. Keep the following points in mind:

### **20.1. Give the complaint serious consideration**

If someone approaches you about your behaviour, try to remain calm and avoid aggravating what is likely to be an already difficult situation.

Listen carefully to the concerns addressed. Discuss how you might work together more effectively.

The other person is more likely to share their views with you if you chose a neutral space and ask open questions without attempting to justify your behaviour. Even so, the other person may not be comfortable speaking to you.

Seek an objective opinion about the behaviour.

If you do not understand the complaint or would like a second opinion about your behaviour, discuss the matter with someone you trust. This might be your Manager or a counsellor engaged by Council's EAP program. Any discussion will be strictly confidential. It is important not to unintentionally escalate the situation by discussing the issue openly.

If you believe that you are being unjustly accused, or the complaint is malicious, you should discuss this with your Manager or the Manager Human Resources. It may be that an informal discussion between you, the person making the allegation and a third party will solve the problem.

If, after careful consideration, you believe that your behaviour is reasonable management action, you should discuss this with your supervisor, Manager or Manager HR. Even in those circumstances, it may be possible to modify future management action to minimise the risk that others might find it unreasonable.

## **21. PRIVACY**

All file notes relating to the report will be kept in locked files. Only staff involved in the process under this policy will have access to these files. Workers involved in a report of bullying will also be offered counselling under Council's EAP program.

These guidelines may not be practical for every case, and the Human Resources Manager or the affected person may suggest a more applicable resolution process.

## **22. EXTERNAL AVENUES**

Reports of workplace bullying should be raised within the workplace, and reasonable attempts should be made to resolve the matter internally before referring to external agencies. Most external agencies encourage complainants to attempt to resolve the situation within the workplace through an informal or formal process (where available) prior to seeking their assistance.

Safe work NSW, Fair Work Australia, the Fair Work Ombudsman, or the Industrial Relations Commission may be contacted where reasonable attempts to resolve a workplace bullying complaint through internal processes within the workplace have failed. The most appropriate agency will depend on the nature of the complaint and the desired outcome.

### **Related Policies:**

Narromine Shire Council - Code of Conduct and Procedures

NSC Grievance Resolution Policy

NSC WHS Policy

Managing unsatisfactory work performance and conduct policy

### **References:**

Work Health and Safety Act 2011 and Regulations 2017 (NSW)

Fair Work Act 2009 (Commonwealth)

Sex Discrimination Act 1984 (Commonwealth)

Disability Discrimination Act 1992 (Commonwealth)

Anti-Discrimination Act 1977 (NSW)

Local Government (State) Award 2020

Narromine Shire Council - Code of Conduct and Procedures

Safe work Australia – Guide for preventing and responding to workplace bullying May 2016

Appendix A

