

**POLICY  
EQUAL EMPLOYMENT OPPORTUNITY**

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<b>RESPONSIBLE OFFICER</b>		General Manager	

# **PART 1: INTRODUCTION**

Riverina Water County Council ('RWCC') aims to provide an environment where employees and others in the workplace are treated fairly and with respect, and are free from unlawful discrimination, harassment, vilification and bullying.

RWCC aims to ensure that when employment decisions are made, they are based on merit, not on irrelevant attributes or characteristics that an individual may possess. RWCC also tries to create a work environment which promotes good working relationships

It replaces all other Anti-Discrimination & Equal Employment Opportunity Policies (whether written or not).

## **1.1 Policy Objectives**

- To protect the public interest,
- To support transparency and accountability,
- To promote individual responsibility and personal example,
- To build a supportive organisational culture.

## **1.2 Scope of Policy**

This Policy applies to employees, agents and contractors (including temporary contractors) of RWCC, collectively referred to in this Policy as 'workplace participants'.

This Policy is not limited to the workplace or work hours. This Policy extends to all functions and places that are work related. For example, work lunches, conferences, Christmas parties and client functions. Equal Employment Opportunity (EEO) laws apply to all areas of employment, as well as the provision of goods and services.

This Policy does not form part of any employee's contract of employment. Nor does it form part of any other workplace participant's contract for service.

## **1.3 Definitions**

EEO laws: Under EEO laws, discrimination, vilification, sexual harassment, bullying and victimisation are unlawful and strictly prohibited.

Direct Discrimination: in employment occurs when a person is treated less favourably than another in their employment because of a reason or ground which is prohibited by law. The prohibited grounds of discrimination are set out in the federal, state and territory anti-discrimination laws and include sex, race, age etc. Relevant current prohibitive grounds for NSW are provided.

Race (including colour, nationality, descent, ethnic, ethno-religious or national origin), Religious belief, affiliation, conviction or activity, Sex, Marital status, domestic status, relationship status, Pregnancy (including potential pregnancy), Homosexuality, transsexuality, sexuality, sexual preference/orientation, lawful sexual activity, gender identity, Carers' responsibilities, family responsibilities, carer or parental status, being childless, Disability/impairment, including physical, mental and intellectual disability, Breastfeeding, Age (including compulsory retirement), Industrial/trade union membership, non-membership or activity, Political belief, opinion, affiliation, conviction or activity, Employer association

membership, non-membership or activity, HIV/AIDS, Defence service, Association (i.e. association with a person who has one or more of the attributes for which discrimination is prohibited)

**Indirect discrimination:** may occur when an employer imposes a policy, requirement or condition which applies to everyone equally but it in fact operates to disadvantage a particular condition which applies to everyone equally but it in fact operates to disadvantage a particular group because of a characteristic of that group, such as their sex, age, race (i.e. a prohibited ground of discrimination).

Example: The Council imposes a height restriction on all applicants for the position of 'Maintenance Operator', that is, an applicant must be over 185cm (6 feet) tall in order to be successfully considered for the position. This requirement at first glance appears fair because it applies to all applicants irrespective of gender. However, in practice this requirement will disadvantage women as a group because statistically, women are naturally shorter than men. So the effect is to disadvantage women because of their sex.

**Discrimination** also includes the situation where a workplace participant harasses another person based on a ground of discrimination. Harassment is unwelcome conduct that a reasonable person would expect to offend, humiliate or intimidate.

**Vilification** is a public act which incites hatred, severe contempt or severe ridicule of a person or group, because of race, homosexuality, transgender, transsexuality or HIV/Aids. Vilification is a particularly serious breach of EEO laws and will be dealt with accordingly.

**Sexual harassment** is unwelcome conduct of a sexual nature, which makes a person feel offended, humiliated or intimidated. Conduct can amount to sexual harassment even if the person did not intend to offend, humiliate or intimidate the other person. However, conduct will not be sexual harassment if a reasonable person, having regard to all the circumstances, would not have anticipated that the conduct would offend, humiliate or intimidate the other person. Sexual harassment does not have to be directed at a particular individual to be unlawful. Behaviour which creates a hostile working environment for other workplace participants can also be unlawful.

Examples of sexual harassment include, but are not limited to:

- physical contact such as pinching, touching, grabbing, kissing or hugging
- staring or leering at a person or at parts of their body
- sexual jokes or comments
- requests for sexual favours
- persistent requests to go out, where they are refused
- sexually explicit conversations
- displays of offensive material such as posters, screen savers, internet material etc.
- accessing or downloading sexually explicit material from the internet
- suggestive comments about a person's body or appearance
- sending rude or offensive emails, attachments or text messages.

Bullying is repeated, unreasonable and inappropriate behaviour directed towards an individual or group, which creates a risk to health and safety.

Victimisation is where a person is retaliated against or subjected to a detriment because they have lodged a complaint, they intend to lodge a complaint or they are involved in a complaint of unlawful conduct. Workplace participants must not retaliate against a person who raises a complaint or subject them to any detriment.

## **2. POLICY CONTENT**

### **2.1 Rights and responsibilities**

All workplace participants must:

- understand and comply with this Policy;
- ensure they do not engage in any unlawful conduct towards other workplace participants, customers/clients or others with whom they come into contact through work;
- ensure they do not aid, abet or encourage other persons to engage in unlawful conduct;
- follow the complaint procedure in this Policy if they experience any unlawful conduct;
- report any unlawful conduct they see occurring to others in the workplace in accordance with the complaint procedure in this Policy; and
- maintain confidentiality if they are involved in the complaint procedure.

Workplace participants should be aware that they can be held legally responsible for their unlawful conduct.

Workplace participants, who aid, abet or encourage other persons to engage in unlawful conduct, can also be legally liable.

### **2.2 Gender equality in the workplace**

RWCC aims to fulfil its obligations as outlined in the Local Government Act 1993 & New South Wales Anti-Discrimination Act 1977 ('the **Act**'), by developing and implementing a workplace program which will attempt to eliminate discrimination and contributing to gender equality in employment and in the workplace.

### **2.3 The aim of RWCC's actions are to:**

- promote and improve gender equality (including equal remuneration between women and men) in employment and in the workplace; and
- support employers to remove barriers to the full and equal participation of women in the workforce, in recognition of the disadvantaged position of women in relation to employment matters; and
- promote, amongst employers, the elimination of discrimination on the basis of gender in relation to employment matters (including in relation to family and caring responsibilities); and
- foster workplace consultation between employers and employees on issues concerning gender equality in employment and in the workplace; and

- improve the productivity and competitiveness of Australian business through the advancement of gender equality in employment and in the workplace.
- These Actions are about attempting to achieve the potential of all workplace participants. It has direct benefits throughout the organisation. These benefits include increased productivity, increased morale, reduced absenteeism, and higher retention rates of employees. For these reasons, Actions in this area should be incorporated into RWCC's strategic and operational plans.

## **2.4 Breach of this policy**

All workplace participants are required to comply with this Policy at all times. If an employee breaches this Policy, they may be subject to disciplinary action. In serious cases this may include termination of employment. Agents and contractors (including temporary contractors) who are found to have breached this Policy may have their contracts with RWCC terminated or not renewed.

If a person makes an unfounded complaint or a false complaint in bad faith (e.g. making up a complaint to get someone else in trouble or making a complaint where there is no foundation for the complaint), that person may be disciplined and may be exposed to a defamation claim.

## **2.5 Complaint handling procedure**

If a workplace participant feels that they have been subjected to any form of unlawful conduct contrary to EEO laws or this Policy, they should not ignore it. RWCC has a complaint procedure for dealing with these issues. The complaint procedure has numerous options available to suit the particular circumstances of each individual situation. The manner in which a complaint will be handled is solely at the discretion of RWCC's Complaint Officer.

## **2.6 Examples of the ways in which a complaint can be dealt with**

- Confront the issue

If a workplace participant feels comfortable doing so, they should address the issue with the person concerned. A workplace participant should identify the offensive behaviour, explain that the behaviour is unwelcome and offensive and ask that the behaviour stop. It may be that the person was not aware that their behaviour was unwelcome or caused offence.

This is not a compulsory step. If a workplace participant does not feel comfortable confronting the person, or the workplace participant confronts the person and the behaviour continues, the workplace participant should report the issue to a RWCC Complaints Officer.

If a workplace participant is unsure about how to handle a situation and is also unsure if they want to make a complaint they should contact an EEO Contact Officer for support and guidance. The EEO Contact Officers aim to assist people uncertain about their rights. EEO Contact Officers are listed at the end of this EEO Policy.

- Report the issue

A workplace participant should report the issue to a Complaints Officer. The Complaints Officer(s) in the workplace participant's workplace is/are the Human Resources Manager.

The Complaints Officer will aim to deal with the workplace participant's complaint in accordance with this Policy. There are two complaint procedures that can be used: informal and formal (detailed further below). The type of complaint procedure used will be determined by the nature of the complaint that is made.

- Informal complaint procedure

Under the informal complaint procedure there is a broad range of options for addressing the complaint. The procedure used to address the issue will depend on the individual circumstances of the case. Possible options include, but are not limited to:

- the Complaints Officer discussing the issue with the person against whom the complaint is made; and/or
- the Complaints Officer facilitating a meeting between the parties in an attempt to resolve the issue and move forward.

The informal complaint procedure is more suited to less serious allegations that if founded, would not warrant disciplinary action being taken.

- Formal complaint procedure

The formal complaint procedure involves a formal investigation of the complaint. Formal investigations may be conducted by a Complaints Officer or a person from outside RWCC, appointed by RWCC.

An investigation generally involves, collecting information about the complaint and then making a finding based on the available information as to whether or not the alleged behaviour occurred. Once a finding is made, the Complaints Officer or the external investigator will make recommendations about resolving the complaint.

If RWCC considers it appropriate for the safe and efficient conduct of an investigation, workplace participants may be required not to report for work during the period of an investigation. RWCC may also provide alternative duties or work during the investigation period. Generally, employees will be paid their normal pay during any such period.

## **2.7 Confidentiality**

The Complaints Officer will endeavour to maintain confidentiality as far as possible. However, it may be necessary to speak with other workplace participants in order to determine what happened, to afford fairness to those against whom the complaint has been made and to resolve the complaint. If a complaint is raised and it appears that unlawful conduct has potentially occurred, RWCC will endeavour to take appropriate action in relation to the complaint.

All workplace participants involved in the complaint must also maintain confidentiality, including the workplace participant who lodges the complaint. Spreading rumours or gossip may expose workplace participants to a defamation claim. Workplace participants may discuss the complaint with a designated support person or representative (who is not a workplace participant employed or engaged by RWCC). However, the support person or representative must also maintain confidentiality.

## **2.8 Possible outcomes**

The possible outcomes will depend on the nature of the complaint and the procedure followed to address the complaint. Where an investigation results in a finding that a person has engaged in unlawful conduct or breach of this Policy, that person may be disciplined. The type and severity of disciplinary action will depend on the nature of the complaint and other relevant factors. Where the investigation results in a finding that the person complained against has engaged in serious misconduct, this may result in instant dismissal. Any disciplinary action is a confidential matter between the affected workplace participant and RWCC.

Agents and contractors (including temporary contractors) who are found to have engaged in unlawful conduct and/or breached this Policy may have their contracts with RWCC terminated or not renewed.

RWCC may take a range of other non-disciplinary outcomes to resolve a complaint, depending on the particular circumstances. Examples include, but are not limited to:

- training to assist in addressing the problems underpinning the complaint;
- monitoring to ensure that there are no further problems;
- implementing a new policy;
- requiring an apology or an undertaking that certain behaviour stop; and/or
- changing work arrangements.

## **2.9 What to do if you are not satisfied with the outcome**

### **Review**

If any of the parties are not satisfied with the way the complaint was handled or the outcome of the complaint process they can contact the Human Resources Manager. The complaint handling process and/or the outcome may then be reviewed by the Senior Human Resources Manager. If a review is undertaken, the Human Resources Manager's decision in relation to the review will be final.

RWCC's goal is to resolve issues in-house wherever possible. Workplace participants can seek the assistance of an outside agency if they feel that their complaint has not been adequately addressed

## **2.10 Questions**

If a workplace participant is unsure about any matter covered by this Policy, a workplace participant should seek the assistance of Human Resources Coordinator.

## **3.0 Related Documents**

- Policy 1.1 Code of Conduct
- Policy 1.5 Complaints Management
- Internal Policy 3.2 Occupational Harassment Bullying
- Internal Policy 3.7 Employee Assistance Program
- Internal Policy 3.8 Workplace Stress

## **4.0 Monitoring & review**

Riverina Water will establish appropriate information and monitoring systems to assist the effective implementation of our equal opportunities policy. RWCC reserves the right to vary, replace or terminate this policy from time to time.

## **5.0 Complaints**

Individuals who believe they have suffered any form of discrimination are entitled to raise the matter through the agreed procedures. All complaints of discrimination will be dealt with seriously, promptly and confidentially.