

2019

# Equal Employment Opportunity Management Plan

SHIRE OF CUNDERDIN  
AS AT 18 JULY 2019

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# INTRODUCTION

## 1. Legislative Responsibility

Under the Western Australian Equal Opportunity Act, 1984 (PART IX) it is the responsibility of Local Government Authorities to prepare and implement an equal opportunity management plan in order to achieve the objects of the Act. These objects are:

- a) to eliminate and ensure the absence of discrimination in employment on the ground of sex, marital status, pregnancy, family responsibility or family status, sexual orientation, race, religious or political conviction, impairment or age;
- b) to eliminate and ensure the absence of discrimination in employment against gender reassigned persons on gender history grounds; and
- c) to promote equal employment opportunity for all persons.

## 2. Discrimination

Discrimination is deemed to have occurred where the "discriminator" treats an "aggrieved person" less favourably than in the same circumstances the discriminator treats or would treat another person in any of the areas covered by the Act, and is defined as:

- a) Direct Discrimination.

"Any decision or action which specifically excludes a person or group from benefit or opportunity, or significantly reduces their chances of obtaining it, because a personal characteristic, irrelevant to the situation, is applied as a barrier."

- b) Indirect Discrimination.

"Rules, policies and procedures that appear neutral but incorporate attitudes and assumptions which disadvantage a particular group."

- c) Systemic or Structural Discrimination.

"The result of interaction of a range of objective practices sanctioned by custom, and may be recognised by analysing statistical data."

## 3. Harassment

Harassment is defined as unwelcome, offensive actions or remarks concerning a person's sex, marital status, pregnancy, race, colour, language, ethnicity, disability, impairment, or religious political conviction.

Harassment is deemed to have occurred, not as a result of a one off or occasional comment or remark, but repeated or continual harassment, as defined.

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#### **4. Complaint Machinery**

The legislation provides its own machinery for processing complaints which is distinct from the existing legal system. Complaints are referred to the Equal Opportunity Commissioner who attempts to settle by conciliation. If the Commissioner fails to settle the matter it may be referred to the State Administrative Tribunal which may:

- a) Dismiss the Complaint.
- b) Order Respondent to cease conduct or redress any loss.
- c) Order Respondent to pay damages.

A party aggrieved by a decision of the Tribunal may appeal under Section 105 of the State Administrative Tribunal Act 2004.

# SECTION ONE - EQUAL OPPORTUNITY POLICY STATEMENT

## 1. Policy Statement

### 1. Introduction

The Shire is committed to equal opportunity and diversity and promotes a work environment that is free from discrimination and harassment, and where individuals are treated with fairness, respect, equality and dignity.

This involves the improvement in the skills and competency levels of employees to provide equal access to further employment or career path progression. The Shire acknowledges and celebrates diversity and commits to continuing to actively and flexibly seek to appoint and accommodate the unique needs of many different employees.

### 2. Application

This policy applies to employees, potential employees, volunteers and contractors/consultants.

### 3. Environment

The Shire recognises that when conflict, discrimination and harassment occurs in the workplace, job satisfaction, morale and productivity suffers. A healthy and safe work environment free from unnecessary discrimination, harassment and bullying is the a primary objective of the Shire.

### 4. Diversity

The Shire appreciates the value inherent in a diverse workforce. Diversity may result from a range of factors; origin, age, gender, race, cultural heritage, lifestyle, education, physical ability, appearance, language or other factors.

### 5. Awareness

Upon appointment all employees are to be given a full copy of this Policy and ensure this Policy is easily accessible electronically and in other forms as requested.

### 6. Monitoring

Employment related practices are to be periodically reviewed in accordance with this Statement, with particular consideration of practices and policies.

## APPLICATION

N/A

## OBJECTIVE

To state the policy in accordance with the WA Equal Employment Act.

## STATUTORY CONTEXT

*Local Government Act 1995 –*

- s.5.40 – principles for employment of staff – to be based on merit and equity etc
- s.5.41 – Role of CEO is to employ and manage staff

*WA Equal Opportunity Act 1984*

*Equal Opportunity Act 1986*

*Racial Discrimination Act 1975*

*Sex Discrimination Act 1984*

*Disability Discrimination Act 1992*

## Adoption of Policy

This policy statement was adopted by the Shire of Cunderdin on 20 June 2019

## **Policy / Staff Manuals**

This Policy Statement will form part of Council's Policy Manual.

## **Circulation**

Council has distributed this policy to all current employees and will endeavor to advise future job applicants of Council's policy on equal opportunity.

Present and future Councillors and Staff will have access to a full copy of Council's Equal Opportunity Management Plan, which contains a copy of Council's adopted Equal Opportunity Policy. Copies of the Policy will be made available to anyone requiring it, upon request.

## **Review**

The Equal Opportunity Policy Statement is to be reviewed annually by this Shire.

## SECTION TWO - AWARENESS RAISING

### 1. Objective

To raise the awareness, of the Councillors and Employees, of the need and desirability of Equal Employment Opportunity (EEO) practices and to endeavour to ensure compliance with the requirements of the Equal Opportunity Act 1984.

### 2. Action Plan

#### a) Responsible Officer (EEO Officer)

The Chief Executive Officer, as appointed by Council, will be the Officer responsible for raising awareness of Councillors and Staff to EEO issues. This Officer is also responsible for implementing and raising awareness of Council's EEO Management Plan, and the ongoing work associated with the implementation of the Plan.

#### b) Staff Training

As part of the ongoing commitment to Equal Employment Opportunity, an EEO component, where considered appropriate by Council, will be introduced into staff training.

Training courses held by other appropriate organizations will also be attended by staff, where this is considered necessary by the Council and the Chief Executive Officer.

#### c) Organisation Chart

The attached organisation flow chart has been adopted by the Council, as have the undermentioned schedule of occupations for the Council's workforce. Both the flow chart and the schedule of occupations will be reviewed annually in conjunction with the general review of the EEO Plan.

#### d) Advice

As and/or when considered necessary by either the Council or the EEO Officer, EEO awareness will be raised using any of the following methods: -

- a) preparation of notices for both Staff and Councillors.
- b) inclusion of EEO issues in staff training
- c) inclusion of EEO issues on the agenda for staff meetings (when necessary).
- d) accepting feedback from Staff to Management.

#### e) Complaints

All complaints will be recorded by the EEO Officer. The complaint will be advised of all other avenues to have the complaint heard if dissatisfied with the decision or actions of the EEO Officer; or any other party to the dispute, in accordance with the complaint machinery as detailed in the introduction to this plan.

## **SECTION THREE - PERSONNEL PRACTICES AND POLICIES**

From the date of acceptance/implementation of the EEO Management Plan all policies or practices adopted by Council, as recorded in the Council's Minutes, shall be deemed amended in so far as any section that is discriminatory under the Equal Opportunity Act or this Management Plan, will be deleted.

The Personnel Policies and Practices of other Local Government Authorities will be monitored, and where practical and deemed appropriate implemented by this Shire and incorporated in this Plan.

Complaints, problems or queries, in relation to personnel policy and practices, will be considered by the EEO Officer, who will make recommendations to Council.

### **1. Recruitment**

All advertised vacancies, descriptions and titles are to be non-discriminatory and all recruitment practices are to be fair and shall not contain any discriminatory requirements or conditions.

### **2. Appointment, Promotion and Transfer**

Council is to appoint the most suitable person to the position of Chief Executive Officer.

Such appointment is to be based on Qualification, Skills, Expertise and Experience and such other criteria as deemed relevant by Council.

The most suitable person for a Position is to be appointed by the Chief Executive Officer to all other positions in the Organisation except the Chief Executive Officer's Position. Such appointments are to be based on qualifications, skills, expertise, experience, aptitude, and such further criteria as is deemed relevant by the Chief Executive Officer. All administrative forms are to be reviewed for relevancy and discriminatory phrasing or requirements deleted. Job Descriptions and Duty Statements are to be drawn up where necessary and reviewed regularly for accuracy.

Qualification requirements for each position are to be reviewed prior to Advertising a Vacant Position for validity, relevance and non-discrimination. All applicants for any position are to be kept fully informed in writing of the outcome of the selection procedure.

### **3. Training & Development**

The Shire encourages participation by any employee in any relevant course of study or training, and reserves the right to apply study requirements or qualification standards to a particular position. The requirements and/or standards shall not be onerous or excessively high and shall be relevant to the position and subject to negotiation with the prospective employee before imposition. Council's requirements must be stated briefly in any advertisement for the position and discussed with the prospective employee prior to interview and/or appointment. Relevant training courses should be publicised to all appropriate employees when the course is acceptable in all respects (eg. timing, cost) and where possible, multi-skilling is encouraged.

### **4. Conditions of Service**

Benefits/entitlements are to be consistent throughout the workforce and without restriction. Adequate and safe facilities such as toilets, amenities and work areas are to be provided by Council. Inconsistencies in rates of pay, allowances, and expenses permitted, or entitlements are not permitted.



## **5. Exit Interviews**

Wherever possible and practicable, Staff leaving the employment of the Shire are to be given the opportunity to comment on all aspects of their employment with this Shire,, including EEO issues. These comments are to be recorded and reviewed in conjunction with existing policy and practices along with periodical reviews of existing policy and practices.

## **SECTION FOUR- DEMOGRAPHIC PROFILE OF EMPLOYEES**

To enable effective management and to assist in the elimination of discrimination in employment, Personnel Data will be collected from all staff members on appointment to a position within the Shire and then annually, and in June. Data required incorporates statistics relevant to discrimination on grounds covered by the Equal Opportunity Act.

Specifically the data includes: -

Gender; salary; occupation; employment status; employment type; length of employment (within organisation) and age.

### **1. Responsible Officer**

The EEO Officer for this Shire is responsible for the preparation and circulation of the demographic profile to all present and future employees.

Confidentiality of the employee is to be ensured by the EEO Officer and the appropriate storage of completed forms in accordance with Council's Recordkeeping Plan.

### **2. Review of Data**

Aggregated information from the demographic survey, from present employees, is attached as an appendage to this Plan.

Changes to the demographic profile of employees is to be aggregated annually. This information will be monitored by the Chief Executive Officer to determine any trends shown by the demographic profile. The Chief Executive Officer will make recommendations to Council, where appropriate, on the implementation of strategies to overcome deficiencies in EEO, revealed by analysis of the demographic profile.

## AGGREGATED DEMOGRAPHIC PROFILE OF EMPLOYEES

### *Gender and Salary*

| Gender and Salary (or Annual Equivalent if Part Time) | Female    |              | Male      |              | Total     |            |
|---|-----------|--------------|-----------|--------------|-----------|------------|
|   | No.       | %            | No.       | %            | No.       | %          |
| \$15,000 & Below                                      | 6         | 18.19        |           |              | 6         | 18.18      |
| \$15,000 - \$30,000                                   | 2         | 6.06         | 1         | 3.03         | 3         | 9.09       |
| \$30,001 - \$40,000                                   | 1         | 3.03         | 1         | 3.03         | 2         | 6.06       |
| \$40,001 - \$50,000                                   | 3         | 9.09         | 0         | 0            | 3         | 9.09       |
| \$50,001 - \$60,000                                   | 5         | 15.15        | 9         | 27.27        | 14        | 42.42      |
| \$60,001 - \$70,000                                   | 1         | 3.03         | 2         | 6.06         | 3         | 9.09       |
| \$70,001 - \$80,000                                   | 0         | 0            | 0         | 0            | 0         | 0          |
| \$80,001 - \$90,000                                   | 0         | 0            | 0         | 0            | 0         | 0          |
| \$90,001 +  | 0         | 0            | 2         | 6.06         | 2         | 6.06       |
| <b>Total</b>  | <b>18</b> | <b>54.55</b> | <b>15</b> | <b>45.45</b> | <b>33</b> | <b>100</b> |

### *Gender and Occupation*

| Gender and Occupation | Female    |              | Male      |              | Total     |            |
|-----------------------|-----------|--------------|-----------|--------------|-----------|------------|
|                       | No.       | %            | No.       | %            | No.       | %          |
| Admin/ Management     | 7         |              | 1         | 3.03         | 8         |            |
| Environment           | 0         | 0            | 1         | 3.03         | 1         | 3.03       |
| Community/Youth       | 0         |              | 0         | 0            | 0         | 0          |
| Child Care            | 6         | 18.18        | 0         | 0            | 6         | 18.18      |
| Medical               | 0         | 0            | 0         | 0            | 0         | 0          |
| Works                 | 3         | 9.09         | 10        | 30.30        | 13        | 39.39      |
| Parks & Gardens       | 0         | 0            | 3         | 9.09         | 3         | 9.09       |
| Cleaner               | 2         | 6.06         | 0         | 0            | 2         | 6.06       |
| <b>Total</b>          | <b>18</b> | <b>54.55</b> | <b>15</b> | <b>45.45</b> | <b>33</b> | <b>100</b> |

### *Gender and Employment Type*

| Gender and Employment | Female    |              | Male      |              | Total     |            |
|-----------------------|-----------|--------------|-----------|--------------|-----------|------------|
|                       | No.       | %            | No.       | %            | No.       | %          |
| Full Time             | 7         | 21.22        | 13        | 39.39        | 20        | 60.60      |
| Part Time             | 3         | 9.09         | 2         | 6.06         | 5         | 15.16      |
| Casual                | 8         | 24.24        | 0         | 0            | 8         | 24.24      |
| <b>Total</b>          | <b>18</b> | <b>54.55</b> | <b>15</b> | <b>45.45</b> | <b>33</b> | <b>100</b> |

## **SECTION 5 - EEO PLAN REVISION**

The Plan is to be reviewed annually, by the EEO Officer unless special issues require earlier changes by Council. Administrative forms and practices, as necessary, will also be reviewed by the EEO Officer.

### **1. Annual Review**

Consideration of reports, complaints and amendments made during the year and assessment of consistency with the Plan as a whole, will be undertaken. Comments and advice will be sought from employees, Councillors and other Local Authorities as appropriate.

A complete and updated copy of the Plan is to be supplied to Councillors and Staff upon request and must be placed on Council's Shire Website.

### **2. Report to Director**

The Chief Executive Officer shall report to the Director of Equal Opportunity in Public Employment under Section 146 (1) of the EEO Act Annually.

## **SECTION SIX- INTERNAL GRIEVANCE PROCEDURES**

### **1. Objective**

To ensure that the Shire of Cunderdin work environment is discrimination and harassment free.

### **2. Grievance Officer**

Due to the size of the Shire of Cunderdin's workforce, the person appointed from time to time as the EEO Officer, shall also be the Grievance Officer. A Complainant will be advised that if they so wish, their complaint may be referred to Council. Upon such a request to the EEO Officer / Grievance Officer, Council shall hear the complaint and act upon that complaint in accordance with the responsibilities and procedures detailed below for the Grievance Officer. The Grievance Officer and Council will, where necessary, be provided with training in the procedures for resolving grievances.

### **3. Responsibilities of Grievance Officer**

Again, due to the size of the Shire of Cunderdin's workforce, it shall be the responsibility of the EEO.

### **4. EEO / Grievance Officer to: -**

- i) Have a working knowledge of the Equal Opportunity Act and a clear understanding of what constitutes harassment and / or discrimination. Also be familiar with the dispute settlement procedures set out in the relevant Awards;
- ii) Set an example in proper standards of conduct in the workplace;
- iii) Provide present and future Staff Members and Councillors with information on what constitutes discriminatory or harassing acts, and inform them that this Shire of Cunderdin's disapproves such conduct / behaviour.
- iv) Advise all employees that they do not have to tolerate harassment or discriminatory acts within their workplace, and advise them of the grievance procedures;

- v) Assist complainants to choose an appropriate course of action to resolve a complaint and to follow through with the chosen course of action;
- vi) Closely monitor any incident of discrimination or harassment and bring Council's policy regarding proper standards of personal conduct in the workplace to the attention of the employee;
- vii) Ensure that the interests and rights of both the complainant and the employee/s, against whom the allegations are being made, are protected.
- viii) Ensure that complete confidentiality is maintained and take no action on a complaint without the complainant's consent.

## **5. Procedure on Receiving a Complaint**

- a. Assure complainant that confidentiality will be maintained, that victimisation of the complainant will not be tolerated, and that further procedures will only be undertaken with the complainant's consent.
- b. Clarify the facts of the complaint in so far as they can be established without further investigation.
- c. Take brief but accurate notes using the complainant's own words where possible. Check all details with the complainant.
- d. Clarify the options available to the Complainant's and the actions, which the complainant or grievance officer could take eg:
  - (i) the Complainant could make it clear to the other party that their behaviour is unwelcome and request that it cease;
  - (ii) the Complainant could contact their Union or the Equal Opportunity Commission; or
  - (iii) The Grievance Officer could proceed with an investigation of the complaint. This is not to occur without the written consent of the complainant.
- e. If the complainant wishes to proceed with an investigation in the first instance, it is undertaken with Confidentiality. It should be recognised that all persons have the right to a fair hearing conducted in a non-accusative and non-judgmental manner.

## 6. Steps to be taken to Resolve Complaints

Within 14 days of a written request, by the complainant, that they wish their complaint to be acted upon, the Grievance Officer shall:-

- 1) Interview in an impartial manner, the employees against whom the allegations have been made;
- 2) State exactly what it is they are accused of doing;
- 3) Provide the opportunity for the person/s to respond fully to the allegations;
- 4) Interview any witness to the incidents under investigation;
- 5) Check the work record of the Complainant to see if any alleged employment disadvantages are evident;
- 6) Make it clear to all people involved in the investigation that it is unlawful to victimise another person in relation to a complaint.

Resolution of a grievance:

- i) If the grievance is not substantiated, explain the reasons for this finding to both parties. An example of such a finding may be that there is no evidence to support the complaint or the conduct does not amount to discrimination under the Equal Opportunity Act. The complainant should be told again of their right to take the complaint to their Union or the Equal Opportunity Commission if they are not satisfied.
- ii) If the grievance is substantiated, tell both parties of this conclusion and the reasons for it.

Decide on immediate and appropriate steps to prevent the behaviour from reoccurring.

In most cases it should be sufficient to counsel the employee or employees concerned and exercise closer supervision in the work area.

All notes, records, statements etc. pertaining to the investigation of any complaint are to remain confidential to the EEO Officer, where appropriate.

Where formal disciplinary action is necessary the steps outlined in the award relevant to the employee should be observed.

Reference: - Dispute Settlement Procedures.

- Local Government Industry Award 2010: Part 2 / Clause 8