

**EQUAL EMPLOYMENT OPPORTUNITY AND EEO  
MANAGEMENT PLAN**

**Procedure 5.5.24**

Policy No. and Title	5.5	Conditions of Employment Policy
Procedure	5.5.24	Equal Employment Opportunity and EEO Management Plan
Version	1	
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**1 OBJECTIVES**

- a) To provide an environment of Equal Employment Opportunity (EEO) in the workplace. Council believes that EEO creates a harmonious and productive workplace which results in better services to the community.
- b) To ensure that all work practices, behaviour, functions and decisions which affect employees are based on EEO principles and that all forms of discrimination are eliminated.

**2 STATEMENT**

- a) Council recognises that all employees have the right to work in an environment which is free from discrimination and aims to strike a balance between work performance and good conduct, privacy and the rights of individual employees.
- b) Behaviour which constitutes discrimination is unacceptable. Furthermore, discrimination is illegal under existing State and Federal legislation.
- c) In all policies, procedures and employment related practices of Council there will be no discrimination relating to gender, marital status, parenthood, race, colour, national origin, physical or mental disability, religion, political views or responsibilities as a carer in accordance with Anti-Discrimination Legislation and Workplace Relations Legislation.

**3 LEGISLATION**

- a) Council has a legal obligation to ensure that its workplace is free from discrimination and harassment in accordance with Federal, State and Local Government legislation.

**3.1 Federal Legislation**

- a) Racial Discrimination Act 1975  
Sex Discrimination Act 1984  
Disability Discrimination Act 1992  
Human Rights and Equal Opportunity Commission Act 1992
- b) These legislations make it unlawful for an organisation or its employees to discriminate against job applicants or employees on the basis of race, colour, nationality or ethnic origin, gender, marital status, pregnancy or disability.
- c) The legislation has additional provisions relating to discrimination involving harassment and specifically including sexual harassment as being unlawful.

## 3.2 State Legislation

### 3.2.1 NSW Anti-Discrimination Act 1977

- a) This legislation specifies it is against the law to discriminate against, or harass someone on the basis of race, gender, marital status, disability, sexual preference, age (including compulsory retirement) or HIV/AIDS vilification.
- b) The NSW Act is administered by the Anti-Discrimination Board which is responsible for the investigation and conciliation of formal complaints of discrimination or harassment.

### 3.2.2 Local Government Act 1993

- a) Section 344 of the Local Government Act compels Council to prepare and implement an EEO Management Plan to eliminate and ensure the absence of discrimination in employment on the grounds of race, gender, marital status and disability. The Act also promotes EEO for women, members of racial minorities and people with a disability.

## 4 DEFINITIONS

**Aboriginal or Torres Strait Islander** is a person of Aboriginal or Torres Strait Islander descent who identifies as Aboriginal or Islander and is accepted as such by the Aboriginal or Torres Strait Island community.

**Affirmative Action** is a program designed to overcome the effects of past discrimination. This discrimination has formed barriers which exclude target groups from having access to EEO. Affirmative action seeks to address the effects of past disadvantages and prevent future disadvantages. It is the method of achieving EEO for target groups.

**Contract worker** means a person who does work for another person under a contract between the employer of the first-mentioned person and that other person.

**Discrimination** refers to unequal treatment of opportunities. Discrimination may be direct, indirect or systemic:

- a) **Direct Discrimination** means treatment that is obviously unfair or unequal. For example, if an employer won't hire someone just because they are a woman this is likely to be direct sex discrimination.
- b) **Indirect Discrimination** means having a requirement that is the same for everyone but has an effect or result that is unfair to particular groups. For example, not considering an employee's overseas skills and training when determining his or her level of pay can constitute indirect race discrimination or doors that are too heavy for someone in a wheelchair to use.
- c) **Systemic Discrimination** means having rules or practices which result in different patterns of access to different jobs and different access to benefits or services. It is the result of both direct and indirect discrimination.

### Disability Discrimination

- a) For the purposes of this procedure, a person (**discriminator**) discriminates against another person (**aggrieved person**) on the ground of a disability of the aggrieved person if, because of the aggrieved person's disability, the discriminator treats or proposes to treat the aggrieved person less favourably

than, in circumstances that are the same or are not materially different, the discriminator treats or would treat a person without the disability.

- b) For the purposes of subsection a), circumstances in which a person treats or would treat another person with a disability are not materially different because of the fact that different accommodation or services may be required by the person with a disability.

**Disability** in relation to a person (Disability Discrimination Act 1992) means:

- a) Total or partial loss of the person's bodily or mental functions;
- b) Total or partial loss of a part of the body;
- c) The presence in the body of organisms causing disease or illness;
- d) The presence in the body of organisms capable of causing disease or illness;
- e) The malfunction, malformation or disfigurement of a part of the person's body;
- f) A disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or
- g) A disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment or that result in disturbed behaviour.

And includes a disability that:

- h) Presently exists;
- i) Previously existed but no longer exists;
- j) May exist in the future, or
- k) Is imputed to a person.

**EEO Groups** as specified in the New South Wales Local Government Act 1993 are:

- a) Women;
- b) People of non-English speaking background;
- c) People of Aboriginal or Torres Strait Islander descent, or
- d) People with a disability.

**Employment** includes (Disability Discrimination Act 1992):

- a) Full-time, part-time, casual and temporary employment;
- b) Work under a contract for services; and
- c) Work as an employee of a State or an instrumentality of a State.

**Equal Employment Opportunity (EEO)** is about:

- a) Making sure that workplaces are free from all forms of unlawful discrimination and harassment, and
- b) Providing programs to assist members of EEO groups to overcome past or present disadvantage.

This means having workplace rules, policies, practices and behaviours that are fair and do not disadvantage people because they belong to particular groups.

**Homosexual Discrimination** occurs if a person is treated less favourably than others on the grounds of his/her homosexuality or their perceived homosexuality. Homosexual discrimination occurs if a person is required to comply with a requirement or condition:

- a) With which non-homosexual persons are not able or willing to comply;
- b) Which is not reasonable in the circumstances, or
- c) With which the homosexual person does not or cannot comply.

**Marital Status** - see *Sex Discrimination* (section 39 of the Anti-Discrimination Act 1977, No. 48).

**Merit** means assessing each person's skills and abilities against the needs of the job and disregarding unlawful personal characteristics which are irrelevant to the job. Merit recognises experience gained both inside and outside formal employment.

**Non-English Speaking Background (NESB)** refers to people who were born in a country where English is not the main language spoken or to people born in Australia with one or both parents who are NESB.

**Psychiatric Impairment** is any condition which impairs a person's thought processes, perception of reality, emotions or judgment or which results in disturbed behaviour.

**Physical Impairment** is any defect or disturbance in the structure or functioning of a person's body.

**Physical, Intellectual or Psychiatric Impairment Discrimination** occurs when someone is treated less favourably than another person in the same or similar circumstances because of the impairment. Discrimination also occurs when a person with an impairment is required to comply with a condition of requirement:

- a) Which a substantial proportion of people who don't have an impairment can comply;
- b) Which is not reasonable; and
- c) Which a person with an impairment does not or is not able to comply.

## 5 EQUAL EMPLOYMENT OPPORUNTUNITY (EEO) MANAGEMENT PLAN

- a) The EEO Management Plan is an important part of Council's EEO procedure. It further articulates Council's commitment to ensuring we provide an excellent work environment that encourages good working relationships between employees.
- b) The EEO Management Plan outlines a number of strategies to support our organisational commitment to EEO principles and practices. This EEO Management Plan clearly identifies that all staff and Councillors are responsible for EEO within the Kempsey Shire Council, particularly those involved in the management and supervision of people.
- c) Our Council is committed to providing necessary information and education to all staff and Councillors to ensure that the principles of EEO are practiced at all times.

- d) The EEO Management Plan has been prepared in accordance with the requirements of the Local Government Act 1993.
- e) The EEO Management Plan is designed to eliminate discriminatory practices and also promote equal opportunity throughout all Council operations and employment related activities, including; recruitment and selection, training and development, remuneration and benefits, performance management as well as grievance and disciplinary procedures.
- f) The Plan itself has four key strategies for an effective approach to EEO; communication and awareness, recruitment, training and development, as well as implementation, evaluation and review.
- g) These EEO strategies are designed to create a sound base for future planning and workplace interaction and provide a mechanism to measure our progress in relation to EEO.

### 5.1 Communication and awareness

- a) To ensure that all Kempsey Shire Council employees are aware of:
  - i) EEO principles;
  - ii) Their responsibilities in relation to EEO principles;
  - iii) The existence of the EEO Management Plan and where it is located, and
  - iv) Council's lack of tolerance of bullying, discrimination and harassment in the workplace.

#### 5.1.1 Maintain employee and community awareness of EEO principles, Council Policies and Procedures

Action	Responsibility	Target Date
Place the EEO Management Plan on Kempsey Shire Council's website and make copies available for employees	Team Leader Human Resources	Ongoing
Ensure EEO responsibilities are included in all position descriptions	Human Resources/Managers	Ongoing
Provide updates to management on legislative issues and other external changes that may impact on the work environment	Team Leader Human Resources	As required
Communicate relevant information to the organisation on the key EEO issues and legislative updates using internal communication channels and Consultative Committee	Team Leader Human Resources/Consultative Committee	As required

#### 5.1.2 Include the EEO procedure in Council's induction program for all new employees

Action	Responsibility	Target Date
Cover all aspects of EEO in the induction program including discrimination, harassment as well as awareness of individual rights and responsibilities	Team Leader Human Resources	Ongoing
Mentoring for new employees occurs as part of the induction process	Managers/Supervisors and peer employees	Ongoing

**5.1.3 Provide appropriate resources to employees so that EEO information, advice and support are available to all Kempsey Shire Council workplaces.**

Action	Responsibility	Target Date
Maintain an Employee Assistance Program (EAP)	Team Leader Human Resources	Ongoing
Contact EAP provider to monitor the extent EEO issues in the workplace are raised and what additional support mechanisms may be required	Team Leader Human Resources	Annually
Improve communication to the organisation of the availability of EEO resources	Human Resources/Consultative Committee	Ongoing
Provide an updated list to staff of trained EEO Contact/Workplace Bullying and Harassment Contact Officers within Council via internal communication channels	Human Resources	Ongoing
Hold annual EEO Contact/Workplace Bullying and Harassment Contact Officers meetings to review and/or implement EEO/Anti Workplace Bullying strategies	Human Resources and EEO/Workplace Bullying and Harassment Contact Officer	Annually
Call for nominations for EEO Contact/Bullying and Harassment Contact Officer and provide training every 3 years	Team Leader Human Resources	Every three years

**5.2 Recruitment**

- a) To ensure recruitment and selection of employees is based on merit and conducted in a fair and transparent way according to the skills, qualifications, knowledge and level of ability to undertake the duties outlined in the position description and selection criteria for a position

**5.2.1 Ensure those who convene interview panels are trained in and implement EEO principles throughout the recruitment process**

Action	Responsibility	Target Date
Ensure that EEO principles are included in Interview Skills training for panel chair and/or panel members	Team Leader Human Resources	Ongoing
Ensure interview panel members follow the identified procedure for recruitment and selection which is designed to include EEO principles	Team Leader Human Resources	Ongoing
Ensure advertisements for vacant positions are non-discriminatory and in accordance with Council's EEO procedure	Human Resources	Ongoing
Review conditions of employment policies and procedures relating to recruitment techniques and selection criteria every two years	Team Leader Human Resources	Every two years

**5.3 Training**

- a) Ensure training programs reflect EEO principles and enhance employee understanding of key EEO objectives.

### 5.3.1 Ensure Council Training Programs reflect EEO principles.

Action	Responsibility	Target Date
Review training and development procedures to ensure they conform with EEO principles	Team Leader Human Resources	Ongoing
Monitor in-house and external training programs to ensure that their scope and content is consistent with EEO principles	Team Leader Human Resources	Ongoing

### 5.3.2 Ensure equal access for all staff to learning and development.

Action	Responsibility	Target Date
Inform all employees of Council's Learning and Development procedures and make information available.	Team Leader Human Resources/Managers	Ongoing
Advertise vacant positions internally where there are suitably qualified applicants to apply.	Team Leader Human Resources/Director/Managers	Ongoing

## 5.4 Implementation, evaluation and review

- a) Ensure Kempsey Shire Council's EEO initiatives are implemented, monitored and regularly evaluated and reviewed.

### 5.4.1 Review Council's EEO Management Plan on a regular basis

Action	Responsibility	Target Date
Review EEO Management Plan every two years and update to reflect contemporary EEO approaches	Team Leader Human Resources	Every two years
Provide for comment for all employees as part of the review process through the Consultative Committee	Team Leader Human Resources/Consultative Committee	Ongoing

### 5.4.2 Council's work environment is monitored from an EEO perspective

Action	Responsibility	Target Date
Ensure the EEO climate is monitored via grievances and exit interview content, through exit interview process	Team Leader Human Resources	Quarterly
Analyse workforce demographics on a regular basis	Team Leader Human Resources	Annually

### 5.4.3 EEO activities and evaluation are presented in report form.

Action	Responsibility	Target Date
Ensure a report is included in the Annual Report on EEO annual results including recruitment statistics, promotion and training statistics including participation levels, costs and activity areas	Team Leader Human Resources	Annually

## VARIATION

Council reserves the right to renew, vary or revoke this procedure which will be reviewed periodically to ensure it is relevant and appropriate.