

**POLICY NAME:** EQUAL EMPLOYMENT OPPORTUNITY

**POLICY REF:** E02

**MEETING ADOPTED:** 27 May 2021  
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## OBJECTIVE

To demonstrate Council and Management Commitment to Equal Employment Opportunity principles and inform all staff about Equal Employment Opportunity Management Plan.

## BACKGROUND

Ballina Shire Council is committed to a policy of equal employment opportunity, fair treatment and non-discrimination for all existing and future employees. The Equal Employment Opportunity Plan and Policy has been developed in accordance with the Anti-Discrimination Act 1977 and Local Government Act 1993.

The Equal Employment Opportunity (EEO) Policy and Management Plan was formally adopted by Council 23 May 1996. Since that time, Council has reviewed and implemented policies and procedures to support equal employment opportunity within the workplace and has provided training to staff in order to demonstrate Council's commitment to providing an equal employment opportunity, harassment and discrimination free workplace.

All employment practices (recruitment, selection, training and employment, promotion and transfer and all other terms and conditions of service) will be based on the merit of the individual against specific job requirements. Existing and future employees will not be discriminated against in their employment on the grounds of race, colour, national origin, sex, disability, race, homosexuality, marital status, age, transgender and carer responsibilities.

Council will, through its Equal Employment Opportunity Management Plan, ensure any its policies and procedures are free from discriminatory practices and will recognise and encourage employees on the basis of their abilities, aptitudes, qualifications and skills, through the implementation and monitoring of effective policies and procedures.

Council will, through its Equal Employment Opportunity Management Plan, ensure that Council meets both its legal responsibilities and corporate goals and objectives.

## DEFINITIONS

The following definitions apply to the Equal Employment Opportunity Policy:

### Equal Employment Opportunity (EEO)

This is the principle which ensures that all employees and potential employees are treated equitably and fairly, regardless of their sex, disability, race, homosexuality, marital status, age, transgender and carer responsibilities.

### Discrimination

Refers to unequal treatment or opportunities. Discrimination may be direct, indirect or systemic:

**Direct Discrimination** occurs where people are treated differently because different criteria are applied when it is not necessary for them to be applied.

**Indirect Discrimination** occurs when rules, regulations or practices assume everyone is the same, have the same opportunities, and can meet the same "normal" criteria. These rules and practices are discriminatory in *effect*, as they exclude people with suitable skills who don't meet the apparently fair rules or

practices. Examples include but are not limited to height requirements for certain jobs, doors that are too heavy for someone in a wheel chair to use, or no female toilets at certain worksites.

**Systemic Discrimination** is 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.

## APPLICATION OF POLICY

The Equal Employment Opportunity Policy applies to:

- Potential Council employees
- Current Council employees
- Council as an employer

As a minimum the Equal Employment Opportunity Policy should be read in conjunction with the following relevant documentation and legislation:

### **Council Plans/Policies**

- Equal Employment Opportunity Management Plan
- Bullying and Harassment Prevention Procedure
- Recruitment Procedure

### **NSW Legislation**

- Anti-Discrimination Act 1977
- Local Government Act 1993

### **Commonwealth Legislation**

- Age Discrimination Act 2004
- Disability Discrimination Act 1992
- Racial Discrimination Act 1975
- Sex Discrimination Act 1984
- Australian Human Rights Commission Act 1986

## POLICY

Equal Employment Opportunity (EEO) is the right to be considered for a job, training opportunity, or other benefit, for which a person is skilled or qualified. EEO is the principle which ensures that all employees and potential employees are treated equitably and fairly, regardless of their sex, disability, race, homosexuality, marital status, age, transgender and carer responsibilities.

In practical terms, a commitment to EEO means that staff selection and promotion must be accurate, fair, accountable, systematic and based solely on merit. Decisions about staff selection must be made on job related criteria and should not render Council as the responsible employer to claims of unlawful discrimination.

Selections made in accordance with Ballina Shire Council Supported Employment Program must comply with National Disability Insurance Agency policies and procedures and other legislative requirements.

Council believes the implementation of an EEO policy and program will create a more productive workplace and will result in better services to the community.

All staff are obliged to follow non-discriminatory practice in accordance with Council's EEO policy and program and maintain a workplace free from discrimination.

### **1. Merit**

Means assessing each person's skills and abilities against the needs of the job and disregarding personal characteristics which are irrelevant to the job.

### **2. Affirmative Action**

Affirmative action programs are designed to overcome the effects of past discrimination. This discrimination has formed barriers which exclude target groups from having access to equal employment opportunity. Affirmative action seeks to redress the effects of past disadvantages and prevent future disadvantages. It is the method of achieving equal employment for target groups. To assist with affirmative action for female employees Council policy is to support and participate in gender equity programs. Other affirmative action programs supported by Council include the Aboriginal employment program and employment of individuals with physical and intellectual disabilities.

### **3. Harassment**

This is any unwelcome, offensive comment or action concerning a person's race, colour, language, accent, ethnic origin, gender, marital status, pregnancy, disability, political or religious conviction. It is behaviour towards another employee which is intimidating or embarrassing and adversely affects their work environment.

### **4. Legislative Perspective**

The Anti-Discrimination Act 1977 makes it unlawful for an employer to discriminate against an employee on the grounds of sex, disability, race, homosexuality, marital status, age, transgender and carers responsibilities.

The Local Government Act 1993 also refers to equal employment opportunity. Section 344 states that the objects of Part 4 of the Act are:

- (a) to eliminate and ensure the absence of discrimination in employment on the grounds of race, sex, marital status and disability in councils, and;
- (b) to promote equal employment opportunity for women, members of racial minorities and persons with disabilities in Councils.

### **5. EEO Management Plan**

Under Section 345 of the Local Government Act 1993, Council must prepare and implement an Equal Employment Opportunity Management Plan in order to achieve the objects set out in Part 4 of this policy.

Council's EEO Management Plan includes provisions relating to:

- (a) the devising of policies and programs by which the objects of Part 4 of the Local Government Act 1993 are to be achieved;
- (b) the communication of those policies and programs to persons within the staff of the Council;
- (c) the collection and recording of appropriate information;

- (d) the review of personnel practices within the Council (including recruitment techniques, selection criteria, training and staff development programs, promotion and transfer policies and patterns, and conditions of service) with a view to the identification of any discriminatory practices;
- (e) the setting of goals or targets, where these may reasonably be determined, against which the success of the plan in achieving the objects of Part 4 of the Local Government Act 1993 may be assessed;
- (f) the means, other than those referred to in paragraph (e) above, of evaluating the policies and programs referred to in paragraph (a);
- (g) the revision and amendment of the plan, and;
- (h) the appointment of persons within the Council to implement the provisions referred to in paragraphs (a) to (g).

Responsibility for the review and maintenance of Council's EEO Management Plan lies with the General Manager and the Manager People and Culture.

## **6. Rights**

All employees have the right:

- (a) to the opportunity to be selected for promotion on merit;
- (b) to choose an individual career path;
- (c) of access to all appropriate benefits and conditions;
- (d) to be free of harassment in the workplace;
- (e) to seek advice from, or complain to the Anti-Discrimination Board.

## **7. Responsibilities**

The **General Manager** will:

- (a) ensure that Council's EEO policy and program is implemented within Council;
- (b) ensure all staff comply with Council's EEO policy and with legal obligations under relevant legislation;
- (c) ensure that management audits of the EEO program are undertaken on a regular basis to ensure that the EEO policy and program continue to meet their objectives.

**Managers and Supervisors** will:

- (a) ensure that Council's EEO policy is implemented within their area of responsibility;
- (b) ensure that all staff with supervisory responsibilities are aware of employees' rights and responsibilities under Council's EEO policy and relevant legislation.

The **Manager People and Culture** will:

- (a) assist with the development and review of policies and procedures;
- (b) ensure that position descriptions of all staff reflect their EEO responsibilities and accountabilities;
- (c) ensure that Council's EEO policy is followed during all employment procedures;

- (d) research EEO matters and keep management informed of developments in EEO;
- (e) provide statistical and other human resources information to allow Council to develop and monitor its EEO program;
- (f) Advise on grievance handling procedures.

**All Employees:**

- (a) are responsible for upholding the EEO principles outlined in this policy;
- (b) must refrain from engaging in any discriminatory or harassing behaviour.

**8. Harassment**

All harassment which is sexual or sex-based, racial or relates to a person's marital status, disability, age, pregnancy, or sexual preferences is discriminatory and will not be tolerated in a Council workplace.

Staff should refer to Council's policies and procedures for guidelines on how to report or deal with harassment issues.

**9. Making a Complaint**

- (a) In the first instance, complaints concerning EEO matters should be made according to Council's *Bullying and Harassment Prevention Policy*;
- (b) Alternatively, employees may wish to discuss the matter with Council's Manager People and Culture before deciding on a course of action;
- (c) All employees have the right to seek advice from, or make a complaint to, the Anti-Discrimination Board at:

Email. [complaintsadb@justice.nsw.gov.au](mailto:complaintsadb@justice.nsw.gov.au)

Post. PO Box W213, Parramatta Westfield NSW 2150

Tel. (02) 9268 5555

Toll free. 1800 670 812

Fax. (02) 9268 5500

Interpreter Service. TIS 131450

**10. Non-Compliance with Policy**

Failure to comply with the terms of this policy may result in disciplinary action in accordance with Local Government State Award disciplinary provisions.

Individuals may also be prosecuted by the Anti-Discrimination Board for breaches of the Anti-Discrimination Act 1977.

**REVIEW**

The Equal Employment Opportunity Policy is to be reviewed every four years and in conjunction with the Equal Employment Opportunity Management Plan.