



# **Policy: Human Resources**

## **EQUAL EMPLOYMENT OPPORTUNITY**



# EQUAL EMPLOYMENT OPPORTUNITY

## ***Policy Statement***

Blue Mountains City Council (Council) is committed to ensuring it is a workplace which upholds the principles of diversity and equal employment opportunity (EEO), fair treatment and is free from discrimination for all existing and potential employees.

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<b>Scope:</b>	<i>All Staff</i>		
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<b>Version</b>	<b>Adoption Date</b>	<b>Reason for Change</b>
2014	22 May 2014	Periodic update
2019	25 September 2019	Periodic update

## Definitions

Term	Definition
the Act	<i>Local Government Act 1993 (NSW)</i>
Code of Conduct	The current <i>Code of Conduct</i> as adopted by Blue Mountains City Council.
the Regulation	<i>Local Government (General) Regulation 2005 (NSW)</i>
Award	<i>Local Government (State) Award 2017</i>
Diversity	<i>Having a workplace which consists of employees from a wide range of backgrounds. For the purposes of this policy, this includes employees and potential employees.</i>
Direct Discrimination	Occurs when an action is taken, or a procedure or rule is applied based on the characteristics of a particular individual or group of people, when those characteristics are irrelevant to the situation (stereotyping).
Indirect Discrimination	Includes a rule, procedure or policy that appears to treat everyone equally, but whose effect has a disproportionate result. If the requirement is not 'reasonable' it will be indirect discrimination.
Systemic Discrimination	Includes 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.
Employees	For the purpose of this policy, the term "employees" applies to all employees, contractors, labour hires and volunteers. All groups are obliged to follow non-discriminatory practices in the workplace, and Council, as the responsible employer, is legally accountable for discrimination in employment matters.

## Related Documents

This document should be read in conjunction with:

- Blue Mountains City Council, *Code of Conduct*
- Blue Mountains City Council, *Recruitment and Employment Policy and Procedure*
- Blue Mountains City Council, *Anti-Discrimination, Harassment and Bullying Policy*
- Blue Mountains City Council *Discipline Policy and Procedure*
- Blue Mountains City Council *Grievance Resolution Policy and Procedure*
- Blue Mountains City Council *Employee Assistance Program Policy*
- *Local Government Industry Guidelines on Workplace Investigations*

**Related Legislation:**

- *Local Government Act 1993 (NSW)*
- *Local Government (General) Regulation 2005 (NSW)*
- *Local Government (State) Award 2017 (NSW)*
- *Sex Discrimination Act 1984 (Cth)*
- *Racial Discrimination Act 1975 (Cth)*
- *Disability Discrimination Act 1992 (Cth)*
- *Age Discrimination Act 2004 (Cth)*
- *Australian Human Rights Commission Act 1986 (Cth)*
- *Work Health and Safety Act 2011*
- *Work Health and Safety Regulation 2017*
- *Privacy and Personal Information Protection Act 1998 (NSW)*

## Scope

### Policy Statement

Blue Mountains City Council is committed to ensuring that it provides a workplace which upholds the principles of diversity and equal employment opportunity (EEO), fair treatment and is free from discrimination for all existing and potential employees.

All employment practices, including recruitment and selection, training and professional development, promotion and transfer will be based solely on the merit of the individual against specific job requirements. Existing and potential employees will not be discriminated against in their employment on the grounds of race, colour, national or ethnic origin, sex, religion, pregnancy, marital or domestic status, age, disability, political convictions, gender identity, sexual preference, carers responsibility, lawful political opinion and activity, trade union activity or any other protected attributes which may come into law in future.

Through its *Equal Opportunity Management Plan*, Council will ensure all policies, procedures and practices are free from discrimination while recognising and encouraging employees and potential employees based on their abilities, aptitudes, education, qualifications and skills. Council believes that in doing so, its workforce will be one which is more productive, and delivers better outcomes for employees and the community which it serves.

This policy is focussed on Council's employment practices, and is not the mechanism for handling other complaints of discrimination which may occur in the community.

### What is Equal Employment Opportunity?

Equal Employment Opportunity (EEO) is the principle which ensures that all employees and potential employees are treated equitably and fairly, regardless of their race, colour, national or ethnic origin, sex, religion, pregnancy, marital or domestic status, age, disability, political convictions, gender identity, sexual preferences or carers responsibilities or any other protected attributes which may come into law in future.

Equal Employment Opportunity includes, but is not limited to:

### Special Measures (formerly known as Affirmative Action)

Special measures aim to foster greater equality by supporting groups of people who face, or have faced entrenched discrimination in the past. By putting special measures in place, organisations can ensure that those groups will have similar access to opportunities as others in the community. Special measures are allowable under Federal anti-discrimination laws.

In employment, this means that an employer may seek to encourage particular groups of potential workers to apply by placing particular wording in job advertisements eg "Persons with a disability are encouraged to apply" or "Aboriginal or Torres Strait Islander persons are encouraged to apply".

If a Manager believes that there is a need to target activities towards a particular group, for example, recruitment of a particular gender, please contact Human Resources for assistance.

Council is committed to ensuring it is a workplace which upholds the principles of diversity and is free from discrimination for all existing and potential employees, including the following forms of discrimination.

### **Age Discrimination**

Age discrimination occurs when a person is treated less favourably, or not given the same opportunities as others in a similar situation because they are considered too young or too old.

In employment, this means that recruiters or managers should not make assumptions that, for example, a young person will not have sufficient skills or experience to perform a job, or that an older person will not cope with the demands of the role, or use of technology.

### **Disability Discrimination**

Disability discrimination occurs when a person is treated less favourably, or not given the same opportunities as others in a similar situation, because of their disability. The term "disability" can mean temporary or permanent disability, physical, intellectual, sensory, neurological, learning or psychosocial disabilities, diseases or illnesses, physical disfigurement, medical conditions and work-related injuries. It extends to disabilities that a person may have had in the past, as well as disabilities that people are assumed to have.

In employment, this means that if a person with a disability is otherwise able to perform the inherent requirements of the role, with or without reasonable adjustments, they should not be discriminated against.

### **Sex Discrimination**

Sex discrimination occurs where someone is treated unfairly because they are female or because they are male. Sex discrimination includes pregnancy discrimination and sexual harassment.

In employment, this means that employers should not make assumptions that, for example a female may not be able to perform in a more physical role.

### **Race Discrimination**

Race discrimination occurs where someone is treated unfairly because of their race, nationality, cultural background or ethno-religion.

### **Homosexual Discrimination**

Homosexual discrimination occurs where someone is treated unfairly because they are gay or lesbian or someone thinks they are gay or lesbian.

### **Transgender Discrimination**

Transgender discrimination is a term to describe anyone who lives, or wishes to live, as a member of the opposite gender to their birth gender. It may encompass under a broader definition anyone who presents or behaves ambiguously in relation to commonly accepted male / female gender expectations.

### **Carers' Responsibilities Discrimination**

Carers' responsibility discrimination occurs when employees with carers' responsibilities are harassed or treated unfairly or differently because they have carers' responsibilities.

## **Expectations and Responsibilities**

Council has expectations and places responsibilities on all parties in upholding the principles of Equal Employment Opportunity, as outlined below.

### **The Chief Executive Officer is expected to:**

- Support Directors, Managers and Supervisors to lead employees, either directly or indirectly in their understanding of and compliance with all Council policies, procedures and the *Code of Conduct*;
- Support employees in the workplace, to ensure that employees who raise concerns will have them managed fairly and equitably;
- Role model appropriate conduct and performance in relation to equal employment opportunity;
- Support Directors, Managers and Supervisors in the management of complaints in regard to unlawful discrimination or equal employment opportunity.

### **Directors, Managers and Supervisors are expected to:**

- Role model appropriate conduct and performance, in addition to leading employees in their understanding and compliance with Council policies, procedures and the *Code of Conduct*;
- Demonstrate the principles of equal employment opportunity in all employment-related activities;
- Not engage in, or enable others to engage in behavior which could be interpreted as unlawful discrimination.
- Raise any concerns with employees about inappropriate conduct as they arise;
- Ensure all employee records relating to unlawful discrimination are promptly placed on personnel files;
- Request the assistance of Human Resources where required during conduct or performance-related meetings, to act as an observer or witness, and to ensure a fair process is followed.

### **Employees can expect to, and are expected to:**

- Treat others, and be treated with respect, and in accordance with Council's values and policies;
- Not engage in, or enable others to engage in behavior which could be interpreted as unlawful discrimination;
- Receive advice and support from their Director, Manager or Supervisor;
- Have concerns in relation to breaches of Council's EEO Policy treated seriously and managed in a timely, confidential and impartial manner, with a focus on maintaining work relationships;
- Be provided with information on the progress of their complaint, and on any decision which may impact them;
- Be protected against victimisation as a result of lodging a complaint.

### **Human Resources will:**

- Provide support and procedural advice to employees and Directors, Managers and Supervisors in relation to the resolution of complaints regarding unlawful discrimination and equal employment opportunity;
- Human Resources representatives may become the Grievance Handler/Investigator in specific circumstances;
- Ensure a thorough assessment/investigation is conducted, ensuring matters are assessed or investigated without bias, adhering to the principles of procedural fairness and confidentiality;
- Uphold the rights and responsibilities of all parties involved in the investigation and resolution processes.

### **Union Representation:**

- Where enquiries or investigations are undertaken in relation to potential breaches of this Policy, employees are entitled to request the presence of a union representative and/or the involvement of their union at any stage, including attendance at meetings;
- Union delegates will be provided with reasonable time without loss of pay to represent members who have raised concerns with regard to potential breaches of this Policy, provided prior approval is sought from the Supervisor/Manager. Such approval shall not be unreasonably withheld.

### **Support Person:**

- Employees who do not make use of a union representative may utilise a support person at any stage of a complaint assessment or investigation process. A support person may be a friend, colleague or family member. The selection of a support person is subject to pre-approval by HR, which will assess confidentiality and conflict of interest considerations;
- The role of the support person is to accompany the employee to meetings, to provide emotional support to the employee and to witness the process;
- The support person should not actively participate in the discussion, and should not act as an advocate for the employee.

## **Confidentiality**

Employees may need to discuss the basis for their concerns or complaint with somebody they trust, such as a family member, union representative or a colleague who is not involved in the matter. Council expects that these people will respect the confidentiality of all parties involved. Management may refuse certain support people if a conflict of interest or potential for breach of confidentiality exists.

## **Complaint Management Process**

Concerns or complaints in relation to potential breaches of this Policy will generally be managed via Council's *Grievance Resolution Procedure*.

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