

Policy

Workplace Discrimination, Harassment and Bullying Policy

City of Newcastle

September 2022

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Message from the CEO

Newcastle is a diverse city, home to people from all walks of life with different experiences and perspectives. In a changing world with increasingly complex challenges and issues that require diverse ways of thinking, we need the strength of many minds. That's why City of Newcastle (CN) is committed to making Inclusion, Diversity & Equity (IDE) in the workplace a priority. We aim to foster an inclusive workplace culture where everyone feels valued and respected and free to contribute their opinions and perspectives towards the organisation's success.

Every employee has the right to work in a safe environment free from unlawful discrimination, harassment, sexual harassment, bullying, victimisation, and vilification. It is incumbent upon all staff to always treat each other and members of the community with respect and dignity.

It is important for our employees to feel comfortable to raise concerns about unlawful discrimination, harassment, sexual harassment, bullying, victimisation, and vilification in the workplace through the appropriate channels. It is our responsibility as an organisation to address these concerns promptly and in accordance with our legal obligations to ensure we promote an inclusive workplace culture for everyone at CN.

Part A Preliminary

1 Purpose

- 1.1 City of Newcastle (CN) is committed to creating an inclusive workplace culture and a safe, flexible and respectful environment for all CN Officials free from all forms of unlawful discrimination, harassment, sexual harassment, bullying, victimisation, and vilification.
- 1.2 This Policy seeks to:
 - 1.2.1 outline the behavioural standards expected at CN as part of our CREW values (Cooperation, Respect, Excellence and Wellbeing), and in line with relevant Commonwealth and State Legislation;
 - 1.2.2 outline the protocols and expectations for preventing and responding to unlawful discrimination, harassment, sexual harassment, bullying, victimisation, and vilification in the workplace; and
 - 1.2.3 provide CN Officials with a guide as to what constitutes unlawful discrimination, harassment, sexual harassment, bullying, victimisation and vilification in a work-related context.
- 1.3 By effectively implementing this Policy, CN aims to attract and retain talented employees and create a positive and inclusive workplace culture for everyone.
- 1.4 This Policy must be interpreted in a manner that is consistent with relevant legislation, including State and Federal anti-discrimination legislation (**Discrimination Legislation**) and in the event of any inconsistency the legislation prevails to the extent of the inconsistency.

2 Scope

- 2.1 This Policy applies to all CN Officials.
- 2.2 This Policy applies to all activities in the course of a CN Official's duties, and activities reasonably connected with those duties. This includes, but is not limited to:
 - 2.2.1 All activities in the workplace, including official work functions; on-site, off-site and after-hours work; meetings (incl. those with external visitors); and any work-related communications.
 - 2.2.2 All aspects of recruitment and selection; conditions and benefits; training and promotion; task allocation; shifts; hours; leave arrangements and workload.
 - 2.2.3 The treatment of other CN Officials, customers and other members of the public encountered in the course of or connected with a CN Official's employment or engagement.
 - 2.2.4 Persons not covered by the definition of CN Officials, are considered as 'other persons at the workplace', as referenced in section 29 of the Work Health and Safety Act 2011 (NSW).
 - 2.2.5 A person at a workplace (either CN Official or other person) must take reasonable care for their own health and safety, and take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons, and comply, so far as the person is reasonably able, with any reasonable instruction (such as this Policy) that is given by the person conducting the business or undertaking to allow the person conducting the business or undertaking to comply with the Work Health and Safety Act 2011 (NSW).

3 Principles

- 3.1 CN is committed to fostering an inclusive workplace culture where people feel respected, valued and safe to be themselves at work and to contribute their talents to the success of the organisation.
- 3.2 CN recognises the potential negative impact of unlawful discrimination, harassment, sexual harassment, bullying, victimisation and vilification.
- 3.3 CN will take all reasonable steps to ensure our policies, procedures and actions reflect and value the diversity of thought and experiences within CN as well as the broader community we serve.
- 3.4 CN is dedicated to providing a working environment which is fair, equitable, safe, inclusive, accessible, challenging and rewarding. This will apply to all aspects of employment, including talent acquisition, induction, employment conditions, remuneration and career development.
- 3.5 CN commits itself to pursuing the following principles:
 - 3.5.1 **Accountability and transparency** – in the approach CN takes to employment decisions that are merit-based, fair, equitable, and accessible.
 - 3.5.2 **Awareness** – ensuring staff are aware of their responsibilities and obligations outlined in this Policy as well as the Code of Conduct, the Public Interest Disclosures (Internal Reporting) Policy, and related policies.
 - 3.5.3 **Ethical conduct** – aligning with this Policy and CN's Code of Conduct, which sets out acceptable standards of ethical behaviour to ensure employees treat each other with respect through ethical and equitable behaviour, fairness, transparency, and open communication.
 - 3.5.4 **Wellbeing** – taking all reasonable steps to provide a working environment that is free from unlawful discrimination, harassment, sexual harassment, bullying, victimisation and vilification.
 - 3.5.5 **Zero Tolerance** – promoting an inclusive organisational culture that will not tolerate unlawful discrimination, harassment, sexual harassment, bullying, victimisation, or vilification.

Part B Roles and Responsibilities

4 All CN Officials

- 4.1 It is the responsibility of all CN Officials to uphold a culture of inclusion, diversity, equity and respect across CN. It is expected that all CN Officials display behaviours that reflect the CREW Values.
- 4.2 All CN Officials must:
 - 4.2.1 follow the standards of behaviour outlined in this Policy and in the Code of Conduct.
 - 4.2.2 offer support to people who experience unlawful discrimination, bullying, harassment, sexual harassment, victimisation, or vilification, including providing information about how to raise a workplace issue.
 - 4.2.3 avoid gossip and respect the confidentiality of workplace issue resolution procedures.
 - 4.2.4 respect and perform their roles consistent with IDE principles as well as our CREW values.
 - 4.2.5 respect the rights of others who work at CN and never encourage or participate in unlawful discrimination, harassment, sexual harassment, bullying, victimisation, or vilification.
 - 4.2.6 report any witnessed behaviour that is unacceptable or inappropriate.
 - 4.2.7 model appropriate standards of behaviour.
 - 4.2.8 treat everyone with dignity, courtesy and respect.

5 CN Directors and Managers

- 5.1 In addition, CN Directors and Managers must also:
 - 5.1.1 make every reasonable effort to prevent unlawful discrimination, harassment, sexual harassment, bullying, victimisation and vilification in the workplace.
 - 5.1.2 manage all those who work at CN fairly and with respect.
 - 5.1.3 be familiar with the purpose of this Policy to respond effectively to questions raised by employees.
 - 5.1.4 not tolerate any unlawful discriminatory behaviour or practices in the workplace.
 - 5.1.5 monitor the working environment to ensure acceptable standards of conduct are demonstrated at all times.
 - 5.1.6 promote CREW values and Inclusion, Diversity & Equity principles within the workplace.
 - 5.1.7 handle all workplace issues promptly, impartially and confidentially. Take immediate action to refer any workplace issue or report any conduct in breach of this Policy to a member of People & Culture.
 - 5.1.8 ensure all employees within their team undertake Inclusion, Diversity & Equity training, whenever offered and reasonably practicable.
 - 5.1.9 ensure all employees within their team understand how to raise a workplace issue about unacceptable behaviour.
 - 5.1.10 take steps to educate and make employees aware of their obligations under this Policy and the law, including Discrimination Legislation.

- 5.1.11 intervene quickly and appropriately when they become aware of inappropriate behaviour.
- 5.1.12 act fairly to resolve issues and enforce workplace behavioural standards, making sure relevant parties are heard.
- 5.1.13 help employees resolve workplace issues informally, where appropriate.
- 5.1.14 ensure employees who raise a workplace issue are not victimised.
- 5.1.15 ensure that recruitment decisions are based on merit and without irrelevant reference to a candidate's protected attributes.
- 5.1.16 seriously consider requests for flexible work arrangements in accordance with CN's Enterprise Agreement and, where applicable, the Local Government (State) Award 2020 and Discrimination Legislation.

6 People & Culture

- 6.1 All workplace issues should be reported to the relevant Manager and/or P&C, by contacting either the P&C Business Partner, the Safety & Wellbeing Partner, the Diversity & Inclusion Partner, or the Industrial Relations Lead in the first instance.
- 6.2 All workplace issues will be handled promptly, impartially and confidentially. Once a workplace issue has been raised with P&C, CN may investigate the matter to establish all relevant facts and to find a resolution between the involved parties.
- 6.3 In order to ensure independence, the person within P&C who is initially contacted to raise the workplace issue will not be involved in final decision-making process about the issue.
- 6.4 The Learning, Planning and Engagement Team will offer relevant induction and/or training to all new starters during the first 3 months of employment with CN and will make refresher training available to all CN Officials every 2-3 years. It is the responsibility of each CN Official and their respective Manager to ensure that they attend all mandatory induction and refresher training.

Part C Unacceptable Workplace Conduct

All CN Officials are required to treat others with dignity, courtesy, and respect. CN considers unlawful discrimination, harassment, sexual harassment, bullying, victimisation, and vilification to be unacceptable behaviour in the workplace, and as such, this conduct will not be tolerated under any circumstances.

7 Discrimination

- 7.1 All CN Officials have the right to a workplace that is free from unlawful discrimination.
- 7.2 CN Officials have the right to reasonable flexibility in working arrangements, in accordance with CN's Enterprise Agreement and, where applicable, the Local Government (State) Award and Discrimination Legislation.
- 7.3 It is unlawful for a person to discriminate against another person or group because of a personal attribute protected by Discrimination Legislation, such as the:
 - 7.3.1 Anti-Discrimination Act 1977 (NSW);
 - 7.3.2 Disability Discrimination Act 1992 (Cth);
 - 7.3.3 Age Discrimination Act 2004 (Cth);
 - 7.3.4 Sex Discrimination Act 1984 (Cth);
 - 7.3.5 Racial Discrimination Act 1975 (Cth); and
 - 7.3.6 Australian Human Rights Commission Act 1986 (Cth).
- 7.4 Unlawful discrimination can be direct or indirect:
 - 7.4.1 Direct discrimination occurs when a person or group is treated less favourably than another person or group in circumstances that are not materially different because of a personal attribute protected by Discrimination Legislation (see list below).

Example: An employer won't hire someone because they are close to retirement age. This is direct age discrimination and is unlawful.
 - 7.4.2 Indirect discrimination occurs when an unreasonable requirement, condition or practice is imposed that has, or is likely to have, the effect of disadvantaging people with a personal attribute protected by Discrimination Legislation (see list below).

Example: A position description requires all candidates to have a valid driver's licence even though driving is not part of the essential job requirements. This could disadvantage some people with disability who may not have a driver's licence. This is indirect disability discrimination and is unlawful.
- 7.5 Protected personal attributes under Discrimination Legislation include:
 - 7.5.1 disability, including physical or mental disability
 - 7.5.2 family or carer's responsibilities
 - 7.5.3 race, colour, nationality, descent or national, ethnic or ethno-religious origin
 - 7.5.4 age
 - 7.5.5 sex
 - 7.5.6 pregnancy, potential pregnancy, and breastfeeding
 - 7.5.7 sexual orientation, intersex status, or gender identity
 - 7.5.8 marital, domestic or relationship status

- 7.5.9 an association with someone who has, or is assumed to have, one of these attributes
- 7.5.10 an assumption or imputation that a person has a protected attribute under Discrimination Legislation or may have it at some time in the future.
- 7.6 At CN it is also unacceptable, and potentially unlawful, for CN Officials to discriminate on other grounds identified by Discrimination Legislation, including immigrant status, religion, political opinion, national extraction, social origin, irrelevant medical record, irrelevant criminal record and trade union activity.
- 7.7 CN may, from time to time, apply for an exemption from Discrimination Legislation for talent acquisition purposes to enhance the workforce representation of underrepresented diversity groups.

8 Harassment and Sexual Harassment

- 8.1 All CN Officials have the right to a workplace that is free from harassment in all forms. Harassment is defined in CN's Code of Conduct as any form of behaviour towards a person that is not wanted by the person, offends, humiliates or intimidates the person and creates a hostile environment.
- 8.2 Behaviour which may constitute harassment includes but is not limited to, staring; leering; touching; offensive comments or insults; taunts and/or jokes. A one-off incident can constitute harassment and it does not matter whether the person conducting themselves in an unwanted or unwelcome manner does so intentionally or not.
- 8.3 Harassment is unacceptable at CN and may be unlawful. If a person is harassed because of a personal attribute that is protected by Discrimination Legislation (including, but not limited to, sex, race, and disability), this will be considered unlawful discrimination.
- 8.4 Sexual harassment, in particular, is unlawful. A person sexually harasses another person when:
 - 8.4.1 the person makes an unwelcome advance or unwelcome request for sexual favours to the person harassed; or
 - 8.4.2 or engages in unwelcome conduct of a sexual nature in relation to the person harassed,

in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated, or intimidated.
- 8.5 Again, in the case of sexual harassment, it does not matter whether the person conducting themselves in an unwelcome manner does so intentionally or not.
- 8.6 Sexual harassment can be physical, verbal or written. It can include:
 - 8.6.1 comments about a person's private life or the way they look
 - 8.6.2 sexually suggestive behaviour, such as leering or staring
 - 8.6.3 brushing up against someone, touching, fondling, or hugging
 - 8.6.4 sexually suggestive comments or jokes
 - 8.6.5 displaying offensive screen savers, photos, calendars, or objects
 - 8.6.6 repeated unwanted requests to go out
 - 8.6.7 requests for sex
 - 8.6.8 sexually explicit posts on social networking sites
 - 8.6.9 insults or taunts of a sexual nature
 - 8.6.10 intrusive questions or statements about a person's private life

- 8.6.11 sending sexually explicit emails, texts, chats, or other written messages
- 8.6.12 inappropriate advances on social networking sites
- 8.6.13 accessing sexually explicit internet sites
- 8.6.14 behaviour that may also be considered an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.
- 8.7 If the behaviour is consensual, welcome and reciprocated, it is not sexual harassment. However, just because someone does not object to inappropriate behaviour in the workplace at the time, it does not mean that the behaviour is welcome.
- 8.8 Sexual harassment in the workplace includes when it happens at work, at work-related events, between people sharing the same workplace, or between colleagues outside of work.
- 8.9 All CN Officials have the same rights and responsibilities in relation to sexual harassment.
- 8.10 A single incident is enough to constitute sexual harassment – it does not have to be repeated.
- 8.11 Sexual harassment is unacceptable at CN and all incidents of sexual harassment – no matter how minor or serious or who is involved – require CN and managers to respond quickly and appropriately.

9 Bullying

- 9.1 All CN Officials have the right to a workplace that is free from bullying.
- 9.2 Workplace bullying is repeated, unreasonable behaviour directed towards a person or group of persons at work that creates a risk to health and safety.
- 9.3 If someone is being bullied because of a protected personal attribute under Discrimination Legislation, it can also constitute unlawful discrimination.
- 9.4 Bullying can take many forms, including jokes, teasing, nicknames, emails, pictures, text messages, social isolation or ignoring people, or unfair work practices.
- 9.5 Workplace bullying can occur between a worker and a manager or supervisor, or between co-workers.
- 9.6 Behaviours that may constitute bullying can be overt or covert and can include:
 - 9.6.1 sarcasm and other forms of demeaning language
 - 9.6.2 threats, abuse, or shouting
 - 9.6.3 coercion
 - 9.6.4 excluding or isolating someone
 - 9.6.5 inappropriate blaming
 - 9.6.6 ganging up
 - 9.6.7 damage to property
 - 9.6.8 constant unconstructive criticism
 - 9.6.9 deliberately withholding information or equipment that a person needs to do their job or access their entitlements
 - 9.6.10 displaying material that is degrading or offensive
 - 9.6.11 damage to property
 - 9.6.12 humiliation or intimidation
 - 9.6.13 offensive jokes

- 9.6.14 unreasonable demands
 - 9.6.15 setting unrealistic deadlines
 - 9.6.16 deliberately changing work rosters to inconvenience particular employees
 - 9.6.17 unreasonable refusal of requests for leave, training, or other workplace benefits.
- 9.7 Bullying is unacceptable at CN and may also be unlawful under the Work Health and Safety Act 2011 (NSW).

10 Victimisation

- 10.1 All CN Officials have the right to raise workplace issues or to make an enquiry in a reasonable and respectful manner without being victimised.
- 10.2 Victimisation is subjecting or threatening to subject someone to a detriment because they have asserted their rights under Discrimination Legislation, raised a workplace issue, helped someone else raise a workplace issue, or refused to do something because it would be unlawful discrimination, harassment, sexual harassment, victimisation or vilification. Victimisation is unlawful.
- 10.3 It is also victimisation to threaten someone (such as a witness) who may be involved in investigating a workplace issue.
- 10.4 Victimisation is a very serious breach of this Policy and is likely (depending on the severity and circumstances) to result in formal discipline against the perpetrator.
- 10.5 CN has a zero-tolerance approach to victimisation.
- 10.6 Examples of victimisation may arise in situations where a CN Official is threatened or subject to retribution when:
 - 10.6.1 intending to raise a workplace issue.
 - 10.6.2 they have raised a workplace issue.
 - 10.6.3 intending to provide information as a witness.
 - 10.6.4 providing information as a witness.
 - 10.6.5 supporting an individual who intends to raise a workplace issue.
 - 10.6.6 supporting an individual who has raised a workplace issue.
 - 10.6.7 believing to have done any of the above.

11 Vilification

- 11.1 All CN Officials have the right to a workplace that is free from vilification in all forms.
- 11.2 Vilification is when someone says or does something in public that is reasonably likely to offend, humiliate, intimidate, or incites hatred, serious contempt or severe ridicule of a person or group.
- 11.3 The following types of vilification are unlawful:
 - 11.3.1 vilification on the basis of sexuality of a person or group, including gay lesbian, or transgender persons;
 - 11.3.2 vilification of people with HIV/AIDS or thought to have HIV/AIDS; and
 - 11.3.3 vilification on the basis of the race, colour, nationality, descent or ethnic, ethno-religious or national origin of a person or group.
- 11.4 Examples of vilification include:
 - 11.4.1 Statements made in the workplace that ridicule or try to make listeners hate people from a particular ethnic group or people who are gay, lesbian, transgender or living with HIV/AIDS.

- 11.4.2 Making claims that a racial or religious group is involved in serious crimes without any proof.
- 11.4.3 Repeated and serious spoken or physical abuse about the characteristics and/or identity of a protected group.
- 11.5 Vilification is a very serious breach of this Policy and is likely (depending on the severity and circumstances) to result in formal discipline against the perpetrator.

12 Gossip

- 12.1 It is unacceptable for CN Officials to talk with other CN Officials, clients or suppliers about a workplace issue raised under this Policy related to unlawful discrimination, harassment, sexual harassment, bullying, victimisation, or vilification.
- 12.2 A CN Official breaching the confidentiality of a workplace issue, a formal investigation or inappropriately disclosing personal information obtained in their role (for example, as a Manager) is a serious breach of this Policy and may lead to formal disciplinary action.

13 Conduct which does not constitute discrimination, harassment, sexual harassment, bullying, victimisation, or vilification

- 13.1 Unlawful discrimination, harassment, sexual harassment, bullying, victimisation, or vilification must not be confused with reasonable management action, such as legitimate comment and advice (including relevant constructive comment or feedback) from a Manager on the work performance or work-related behaviour of an individual or group.
- 13.2 The process of providing feedback to CN Officials during a formal performance review, or counselling CN Officials regarding their work performance, will not always be free of stress. These situations should be an open, two-way communication process. The process should be managed ethically and with sensitivity but should not avoid the responsibilities to provide constructive and honest feedback.
- 13.3 It will also not be unlawful discrimination if CN does not provide assistance or adjustments to enable a CN Official to perform their role where providing such assistance and adjustments would cause an unjustifiable hardship to CN.
- 13.4 Further, it will not be unlawful discrimination if CN reasonably requires a CN Official to have a particular attribute to perform the inherent requirements of their role.

14 Merit at CN

- 14.1 CN is required under the Local Government Act 1993 (NSW) to make appointments on the basis of merit. The merit of a candidate for an appointment is to be determined according to:
 - 14.1.1 the nature of the duties of the position; and
 - 14.1.2 the abilities, qualifications, experience and standard of work performance of candidates relevant to those duties.
- 14.2 All CN Officials have the right to participate in recruitment and selection processes where decisions are based on merit and not affected by irrelevant personal attributes.
- 14.3 Recruitment panels are required to include diversity in panellists, e.g. members must vary in age and gender identity.

- 14.4 All recruitment and job selection decisions at CN will be based on merit – the skills and abilities of the candidate as measured against the essential requirements of the position – regardless of personal attributes.
- 14.5 It is unacceptable to ask job candidates questions, or to in any other way seek information, about their protected personal attributes, unless this can be shown to be directly relevant to a genuine requirement of the position.
- 14.6 CN recognises that merit is not an objective concept and can therefore in itself lead to harmful stereotypes and unconscious biases.

Part D – Process

15 Resolving issues at CN

- 15.1 CN has a Procedure for reporting, investigating, and resolving workplace issues related to unlawful discrimination, harassment, sexual harassment, bullying, victimisation, or vilification under this Policy. Refer to the intranet or talk to your Manager/Supervisor for further information about the process.
- 15.2 CN Officials can raise issues with their Manager/Supervisor, P&C Business Partner, Safety & Wellbeing Partner, Diversity & Inclusion Partner, Industrial Relations Lead, Health & Safety Committee Representatives, or union representative if they are a member.
- 15.3 There may be circumstances where CN or the CN Official believes that it is appropriate to deal with a workplace issue in another way. However, in the first instance, attempts should be made to resolve the situation internally.
- 15.4 Any reports of unlawful discrimination, harassment, sexual harassment, bullying, victimisation, or vilification will be treated seriously. Although there is no set time to investigate or resolve an issue, CN will do all things reasonably necessary to attempt to deal with the issue in a timely and efficient manner, in accordance with the CN Enterprise Agreement and, where applicable, the Local Government (State) Award 2020 and the Local Government Industry Guidelines on Workplace Investigations.
- 15.5 All CN Officials have the right to raise workplace issues or to make an enquiry in a reasonable and respectful manner without being victimised. A person raising a workplace issue and/or who is a witness to alleged unlawful discrimination, harassment, sexual harassment, bullying, victimisation, or vilification should not be victimised.
- 15.6 CN may be required to discuss a workplace issue with others in the workplace to properly investigate the matter and resolve the workplace issue. Where a workplace issue appears serious or where unlawful conduct is alleged to have occurred, CN may disclose information to an external person, persons, entity, or entities for the purposes of independently investigating the issue. In these circumstances, CN will endeavour to ensure that any external party is aware of and agrees to treat the matter confidentially so far as is possible.
- 15.7 CN Officials are required to maintain confidentiality if they are involved in a procedure to resolve a workplace issue. If a CN Official breaches confidentiality, they may be subjected to disciplinary action up to, and including, termination of employment or engagement. Spreading rumours or gossip may also expose a CN Official to a defamation claim.
- 15.8 Nothing in this Policy prevents CN Officials from raising concerns of unlawful discrimination, harassment, sexual harassment, bullying, victimisation, or vilification with external bodies such as Safe Work NSW or Anti-Discrimination NSW.
- 15.9 CN Officials who do not feel safe or confident to raise a workplace issue may seek initial assistance and advice from their People & Culture Business Partner, Safety & Wellbeing Partner, Diversity & Inclusion Partner, Industrial Relations Lead or Health & Safety Committee Representative.
- 15.10 CN employees (including full-time, part-time, casual, temporary and fixed term employees) and Councillors are entitled to a certain amount of free, professional counselling from our Employee Assistance Program (EAP). To access the EAP, talk to your Manager, your Health & Safety Committee Representative or union representative, or refer to the [CN intranet](#).
- 15.11 Any workplace issue raised under this Policy must be made in good faith. That is, it should not be raised in a frivolous or vexatious manner or where it is known that the issue is false or misleading.

15.12A person who does not raise an issue in good faith may be subject to disciplinary action up to, and including, termination of employment or engagement.

16 Breaches of Policy

- 16.1 Breaches of this Policy will not be tolerated.
- 16.2 CN Officials found to have engaged in conduct in breach of this Policy might be counselled, warned or disciplined up to, and including, termination of employment or engagement.
- 16.3 Disciplinary action taken will depend on the nature and circumstances of each breach and could include:
 - 16.3.1 a verbal or written apology;
 - 16.3.2 one or more parties agreeing to participate in counselling or training;
 - 16.3.3 a verbal or written reprimand;
 - 16.3.4 a written warning or final warning;
 - 16.3.5 transfer, demotion or dismissal; or
 - 16.3.6 being asked to leave CN premises.
- 16.4 Any contractor, including a subcontractor, who is found to have breached this Policy may have their contract with CN terminated or not renewed.
- 16.5 If a CN Official is suspected of committing a breach of this Policy, they will be required to cooperate with any investigation in relation to this matter. A failure to comply with such a direction may in itself result in disciplinary action up to, and including, termination of employment or engagement.
- 16.6 If an investigation finds unlawful discrimination, harassment, sexual harassment, bullying, victimisation, vilification or otherwise inappropriate workplace behaviour has not occurred or cannot be substantiated, CN may still take appropriate action to address any workplace issues leading to the report.

17 Confidentiality

- 17.1 All matters arising under this Policy will be treated in strict confidence. Any person involved in a matter is expected to maintain confidentiality.
- 17.2 The accurate keeping of records is essential and all documentation will be managed confidentially.
- 17.3 Where disciplinary action is taken, the employee will be notified of any records placed on their employee file.
- 17.4 Records relating to investigations under this Policy should be managed in accordance with CN's Records Management Policy and in accordance with Part 8 of CN's Code of Conduct.

18 More information and support

- 18.1 CN will take all reasonable steps to ensure CN Officials are informed and educated about the organisation's Workplace Discrimination, Harassment and Bullying Policy as well as its commitment to Inclusion, Diversity & Equity to prevent unacceptable behaviour in the workplace.
- 18.2 CN provides all employees (including full-time, part-time, casual, temporary and fixed term employees) and Councillors access to an Employee Assistance Program (EAP) in an offsite environment and at no cost. EAP counselling is confidential, and nothing discussed with a counsellor will be communicated back to CN. EAP counselling is available free to employees (including full-time, part-time, casual, temporary and fixed term employees) and Councillors regardless of whether the

issue is related to a workplace problem or some other issue for the employee. Access to the EAP provider can be made by arranging an appointment. The provider can be contacted 24 hours, seven days a week.

18.3 Any CN Official who feels they have been discriminated against, harassed, sexually harassed, bullied, victimised or vilified in the workplace can obtain information and support from:

18.3.1 Any of their relevant Management team

18.3.2 People & Culture Business Partner

18.3.3 Diversity & Inclusion Partner

18.3.4 Safety & Wellbeing Partner

18.3.5 Industrial Relations Lead

18.3.6 Health & Safety Committee Representative

18.3.7 Union representative (if they are a member)

Annexure A - Definitions

CEO means Chief Executive Officer of City of Newcastle and includes their delegate or authorised representative.

References to the Chief Executive Officer are references to the General Manager appointed under the *Local Government Act 1993* (NSW).

City of Newcastle (CN) means Newcastle City Council.

Council means the elected Council.

EAP means Employee Assistance Program

CN Official means Councillors, CN employees (including full-time, part-time, temporary, casual and fixed term employees), volunteers, contractors, stakeholders conducting business at CN, or individuals who have public official functions

Manager means all people leaders with supervisory responsibilities, regardless of their level or position.

Workplace is a place where work is carried out for a business or undertaking and includes any place where a worker goes, or is likely to be, while at work – as per the definition in Section 8 of the Work Health and Safety Act 2011 (NSW).

Other person at the workplace is any person not covered under the definition of 'CN Official' who is at a CN workplace.

Unless stated otherwise, a reference to a section or clause is a reference to a section or clause of this Policy.

Annexure B - Policy Authorisations

Function	Position Number / Title
Authority to conduct an investigation	People & Culture Business Partner P30132, P30133, P30134, P60144 Industrial Relations Lead P20892 Business Partnering Lead P60148, P60428 Strategic Partnering Manager P30056 Director People & Culture P30051 Executive Leadership Team
Authority to refer an investigation to an external party	Industrial Relations Lead P20892 Strategic Partnering Manager P30056 Director People & Culture P30051 Executive Leadership Team

Document Control

Policy title	Workplace Discrimination, Harassment and Bullying Policy
Policy owner	Director People & Culture
Policy expert/writer	Diversity & Inclusion Partner
Associated Procedure Title (if applicable)	Workplace Discrimination, Bullying & Harassment Complaints Procedure (UPDATED, previously named Equal Employment Opportunity Grievance Procedure)
Procedure owner (if applicable)	People & Culture
Prepared by	People & Culture
Approved by	CEO
Date approved	To be completed by Legal
Policy approval form reference	ECM#
Commencement Date	To be completed by Legal
Next revision date (date policy will be revised)	To be completed by Legal
Termination date	To be completed by Legal (one year post revision date)
Version	Version number 2 (versions mean adopted versions only)
Category	HR - Employee Relations
Keywords	Discrimination, Bullying, Harassment, Sexual Harassment, Victimisation, Vilification, Inclusion, Diversity, Equity
Details of previous versions	Equal Employment Opportunity Policy (ECM 4139532)
Legislative amendments	N/A
Relevant strategic direction	Caring and Inclusive Community (Newcastle 2030) Connected and Fair Community (Newcastle 2040)
Relevant strategy	CN Inclusion, Diversity & Equity Strategy 2022-2026 (in draft)
Relevant legislation/codes (reference specific sections)	This Policy supports CN's compliance with the following legislation: <ul style="list-style-type: none"> • 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) • Anti Discrimination Act 1977 (NSW) • Work Health and Safety Act 2011 (NSW)

	<ul style="list-style-type: none"> • Work Health and Safety Regulation 2017 (NSW)
Other related policies/ documents/ strategies	<p>Related policies, documents and strategies if applicable:</p> <ul style="list-style-type: none"> • Flexible Work Arrangements Policy • Talent Acquisition Policy • Code of Conduct for Staff Policy • Employee Assistance Program Policy • Work Health and Safety Policy • Privacy Management Policy • Records Management Policy <p>Enterprise Agreement 2019 Enterprise Agreement 2022 (in draft) Local Government (State) Award 2020</p>
Related forms	<p>Grievance and Dispute Form Grievance Handling Form</p>
Required on website	No
Authorisations	Functions authorised under this Policy at Annexure B