

**SECTION 4 - EQUAL EMPLOYMENT OPPORTUNITY**

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**1.0 PURPOSE**

This Section describes WSN Environmental Solutions Equal Employment Opportunity Policy and related procedural issues.

## **1.0 PRINCIPLES**

4.2.1 WSN Environmental Solutions commitment to equal opportunity strongly supports and demonstrates the principles of fairness and equity in all matters, and tolerance and respect for others, whether this involves work colleagues, job applicants, clients or the public.

4.2.2 Under WSN Environmental Solutions Policy no one is to be denied opportunity or treated differently because of irrelevant factors such as race, age, gender, disability or culture, nor be subjected to any form of discrimination or harassment.

4.2.3 WSN Environmental Solutions Equal Employment Opportunity Policy provides that:

- All staff members, managers, job applicants and customers/clients will be treated fairly, equitably and honestly
- No staff member (or manager) will be subjected to unfair treatment through prejudice, discrimination, harassment or bullying
- All job applicants for positions with WSN will be considered solely on the basis of their merits for the position for which they have applied
- All staff members and managers take responsibility for their own behaviour at all times and are committed to and will comply with the content and spirit of relevant EEO and anti-discrimination legislation and Principles of Cultural Diversity

## **4.3 PRINCIPLES OF CULTURAL DIVERSITY**

Principles of Cultural Diversity are contained in the Community Relations Commission and Principles of Multiculturalism Act 2000. These Principles are:

- a) All individuals in New South Wales should have the greatest possible opportunity to contribute to and participate in all aspects of public life in which they may legally participate;
- b) All individuals and institutions should respect and make provision for the culture, language and religion of others within an Australian legal and institutional framework where English is the common language;

- c) All individuals should have the greatest possible opportunity to make use of and participate in relevant activities and programs provided or administered by the Government of New South Wales;
- d) All institutions of New South Wales should recognise the linguistic and cultural assets in the population of New South Wales as a valuable resource and promote this resource to maximise the development of the State

#### **4.4 POLICY**

WSN's EEO Policy states:

*"WSN Environmental Solutions will provide equal opportunity for all staff members and applicants for employment regardless of their gender, race, colour, national origin, age, religion, sexual preference, trade union activity, family and carers' responsibilities, pregnancy, political opinion, marital status, physical or intellectual impairment or any other grounds designated as unlawful discrimination under law. Equal opportunity will be provided in promotions, wages, benefits and all terms and conditions of employment including decisions on organisation restructure and position change.*

*This Policy will be communicated to new staff members through induction programs and will be publicised for all staff members."*

#### **4.5 AUTHORITY**

Anti-Discrimination Act 1977

[http://www.austlii.edu.au/au/legis/nsw/consol\\_act/aa1977204/](http://www.austlii.edu.au/au/legis/nsw/consol_act/aa1977204/)

Community Relations Commission and Principles of Multiculturalism Act 2000:

[http://www.austlii.edu.au/au/legis/nsw/consol\\_act/crcapoma2000722/](http://www.austlii.edu.au/au/legis/nsw/consol_act/crcapoma2000722/)

Where necessary, reference should be made to the Office of the Director of Equal Opportunity in Public Employment (ODEOPE) web-site:

<http://www.eeo.nsw.gov.au/>

#### **4.6 APPLIED BY**

- 4.6.1 All staff members and managers have a responsibility to represent WSN Environmental Solutions in a way which demonstrates professionalism and the integrity of the business as seen by other staff members, clients and the public.
- 4.6.2 Managers and supervisors will ensure that this policy is complied with and make certain that their workplace is free from any form of discrimination or harassment by providing a positive role model and by informing and educating staff members about their responsibilities.

#### **4.7 “MERIT IN EMPLOYMENT” PRINCIPLE**

4.7.1 Equal opportunity is based on the principle of merit in employment. This requires that an individual (staff member or job applicant) be treated solely on the basis of their skills, knowledge and suitability, not on irrelevant personal characteristics such as race, gender, religion, age, sexual preference or disability which have no bearing on the person’s ability to perform the functions of the job.

#### **4.8 DISCRIMINATION**

4.8.1 Discrimination refers to treating a person (or group) differently because of personal characteristics. Legislation provides that discrimination is illegal on the basis of:

- Gender
- Pregnancy
- Race, colour, ethnic or religious background, descent or nationality
- Marital status
- Disability (including past, present or future physical or intellectual disability)
- Sexual preference
- Age
- Compulsory retirement
- Transgender (ie a person who lives, has lived or wants to live as a member of the opposite gender)
- Carers' responsibilities

Discrimination may be direct or indirect.

##### **(i) Direct Discrimination:**

This relates to any action which excludes people from a benefit or opportunity because of a personal characteristic, or assumptions about these, not relevant to the job. Examples of direct discrimination are:

- asking only female applicants at interview about their suitability for a position's extended working hours because of family commitments
- excluding job applicants from a shortlist because they are over 40 years of age

##### **(ii) Indirect Discrimination:**

Indirect discrimination can occur where business rules or practices appear fair and equal but may disadvantage a person or group.

For example, requiring staff members to attend distant residential training programs. This may deny access to the training (and hence, career opportunities) for certain staff members who have family care obligations.

#### **4.9 ALLOWABLE DISCRIMINATION**

4.9.1 Anti discrimination legislation does not make it illegal to treat certain staff members differently eg:

- Requiring junior staff members to follow different business rules or receive different entitlements or pay rates (except where provided in a specific award)
- Providing women with additional entitlements in connection with pregnancy or childbirth
- Meeting special needs of particular age or racial groups

#### **4.10 WORKPLACE HARASSMENT**

4.10.1 WSN strongly advocates professional and reasonable behaviour by all staff members. As such, workplace harassment is not tolerated.

4.10.2 Managers, supervisors and staff members have a responsibility to maintain a working environment in which everyone's dignity is respected and no one feels offended or intimidated by the actions or behaviour of another person.

4.10.3 There are, however, many situations in the workplace which are *not* harassment, but which, for instance, are part of the normal management process of supervising staff members. Where a supervisor repeatedly tells a staff member that his or her work performance is below standard, this does not constitute harassment. The supervisor would, of course, remain professional, objective and courteous in discussing such issues with the staff member.

#### **4.11 NATURE OF HARASSMENT**

4.11.1 Harassment is behaviour which is uninvited, unwelcome or offensive. It can be verbal, written, by innuendo, physical, or the display of offensive material. Grounds for harassment can exist whether harassment was intended or unintended.

4.11.2 Harassment occurs if a reasonable person would consider the behaviour offensive, humiliating or intimidating. However, an individual has a right to react to particular behaviour in a way which is valid for them in the circumstances. The seriousness of their reaction is not diminished because another, more assertive person may react differently.

4.11.3 Where a person experiences a particular behaviour, that person's perception of the behaviour may be critical in consideration of the harassment. What is acceptable behaviour to one person or a group may not be acceptable to another person.

4.11.4 Harassment can occur on the basis of:

- Sex
- Gender
- Sexual preference
- Marital status
- Pregnancy
- Race
- Colour
- Disability or impairment
- Religion
- Political opinion
  
- Social origin
- Family responsibility
- Age
- Medical record
- Criminal record
- Trade union membership or activity
- Carers' responsibilities

4.11.5 Examples of behaviour that may constitute harassment include racial jokes, persistent and unwelcome requests to go out; comments on a person's impairment or disability; comments on a person's sexual partner or preference, or reference to sexual activities, derogatory name calling, unwelcome sexual advances, offensive gestures, uninvited physical contact, unwelcome, sexual, threatening or violent behaviour, humiliation, intimidation or bullying and the display of offensive visual material.

4.11.6 Any complaint of harassment will be investigated promptly by management and, where substantiated, appropriate discipline action will be taken which may lead to termination of the offender's employment.

4.11.7 Victimization of a person who has lodged a harassment complaint will not be tolerated and may also lead to termination of the offender's employment.

## **4.12 LEGAL ISSUES**

4.12.1 Harassment is illegal and a number of organisations have incurred significant financial and other penalties because they permitted harassment to occur without taking appropriate action. Penalties have also been imposed by the courts on individual staff members, supervisors and managers.

#### **4.13 WORKPLACE ISSUES**

4.13.1 In addition to damages awarded by the courts in cases of proven harassment, organisations have suffered significant disadvantages to their business through:

- Adverse press publicity
- Compensation claims
- Absenteeism
- Transfers
- Resignations
- Dismissals
- Retraining
- Investigation costs

4.13.2 Harassment also has a major impact on the morale and harmony of the workplace with a consequent reduction in productivity.

#### **4.14 RESPONSIBILITIES OF MANAGERS AND SUPERVISORS**

4.14.1 All managers and supervisors are responsible for ensuring:

- Staff members maintain a standard of professional behaviour and conduct that does not adversely affect another individual's work performance, or lead to physical or emotional stress;
- Existing and new staff members are aware of their responsibilities in contributing to a harassment free workplace;
- They understand the issues and develop skills that will enable them to identify and resolve potential harassment issues;
- Appropriate action is taken to promptly investigate and resolve any harassment issue.

4.14.2 Managers and supervisors do not need to wait for a formal complaint to be lodged before taking action on harassment. Where a staff member does not wish to complain formally or where harassment behaviour is observed, the manager/supervisor needs to take action to stop the behaviour.

4.14.3 In certain situations it might be sufficient to remind the staff member or group of staff members about what constitutes mature, professional behaviour and WSN's policy in relation to issues which might be perceived as harassment. In other situations, a more direct approach to the staff member(s) might be appropriate. Managers and supervisors will use sound judgement in addressing such issues.

#### **4.15 COMPLAINTS – PROCEDURES**

- 4.15.1 A staff member who wishes to lodge a harassment complaint with a manager/supervisor should be given an opportunity to do so in a confidential environment without interruption.
- 4.15.2 Because of the potential seriousness of the complaint, the manager should be professional and sympathetic in listening to the issue. It is imperative that the staff member feels confident in discussing what might be a difficult or embarrassing issue.
- 4.15.3 A staff member may bring a support person with them to the discussion with the Manager. Interpreter services should be provided where provided by the staff member.
- 4.15.4 In the conversation with the staff member the manager should obtain a detailed account of the complaint, taking comprehensive notes and, where possible, using the staff member's own words.
- 4.15.5 The manager's note should contain specific details of times, dates, locations etc.
- 4.15.6 Prior to concluding the discussion the manager should check all details with the staff member to ensure their accuracy.
- 4.15.7 The manager should retain any letters, notes, drawings etc provided by the staff member.
- 4.15.8 All notes and material relating to the complaint are to be stored securely.
- 4.15.9 In the interests of 'natural justice', an alleged harasser must be given an opportunity to respond fully to the allegations.
- 4.15.10 Generally, information provided by a staff member who lodges a complaint, should not be disclosed without that staff member's consent. However, where the safety and well-being of other staff members are at risk, the manager is responsible for taking appropriate action depending on the circumstances.
- 4.15.11 At the same time, confidentiality of the complainant must be protected and they should be informed that details which could identify them will not be disclosed. The staff member needs to be made aware, however, that while their identity will be kept confidential, an alleged harasser may make assumptions about the origins of the complaint and/or identify the complainant.
- 4.15.12 The staff member should also be informed that they should keep their complaint confidential, otherwise the alleged harasser could take action against them for defamation.

#### **4.16 WORKPLACE BULLYING**

4.16.1 Workplace bullying is a form of harassment where an individual uses their status, power or position to threaten or coerce another staff member by fear. Because of the emphasis WSN places on professional and fair behaviour by all staff members, such behaviour is not tolerated and any such claims will be investigated.

4.16.2 There is a clear differentiation, however, between such behaviour and normal management processes of supervision and interaction with staff members. Where a staff member's work performance and behaviour needs to be addressed by a supervisor or manager this may involve the manager/supervisor identifying specific shortcomings and criticisms, and appropriate action to address this including the possible consequences of appropriate discipline action. The manager/supervisor will ensure they deal with such issues, and the staff member involved, objectively and professionally.