1.0 Policy Statement

1.1 Waratah-Wynyard Council aims to:

(a) create a working environment which is free from discrimination, bullying and harassment and where all members of staff are treated with dignity, courtesy and respect;
(b) implement training and awareness raising strategies to ensure that all employees know their rights and responsibilities;
(c) provide an effective procedure for complaints based on the principles of natural justice;
(d) treat all complaints in a sensitive, fair, timely and confidential manner;
(e) guarantee protection from any victimisation or reprisals;
(f) encourage the reporting of behaviour which breaches the discrimination and harassment policy; and
(g) promote appropriate standards of conduct at all times.

1.2 Waratah-Wynyard Council is committed to ensuring that the working environment is free from discrimination and harassment and as such discrimination and harassment will not be tolerated under any circumstances.

2.0 Objective

2.1 This Policy is intended to ensure that Council complies with the provisions of the Anti-Discrimination Act 1998 (Tas), upon which this Policy is modelled, and the anti-discrimination provisions of federal legislation. The Policy also deals with bullying behaviour that may not be specifically covered by State or federal legislation.

3.0 Scope

3.1 This Policy applies to all Council employees, Councillors, volunteers and work placement / work experience participants.

4.0 Policy Provisions

4.1 An Environment Free from Harassment, Bullying and Discrimination

4.1.1 Council is committed to compliance with the provisions of the Anti-Discrimination Act 1998 (Tas) and the anti-discrimination provisions of federal legislation. As such, Council will seek to ensure that its employees, Councillors, volunteers or work placement / work experience participants do not engage in behaviour that discriminates against other persons, either directly or indirectly, on the basis of any of the following attributes:

(a) race/ethnicity;
(b) age;
(c) sexual orientation;
(d) lawful sexual activity;
(e) gender;
(f) marital status;
(g) relationship status;
(h) pregnancy;
4.1.2 Council will also seek to ensure that its employees, Councillors, volunteers or work placement / work experience participants do not engage in behaviour that discriminates against other persons, either directly or indirectly, on the basis of any of the following attributes:

(a) physical features or appearance;
(b) occupation or occupational status;
(c) socio-economic status.

4.1.3 To meet its commitments under clauses 4.1.1 and 4.1.2 the Council will not tolerate:

(a) any conduct which offends, humiliates, intimidates, insults or ridicules another person on the basis of any of the attributes listed in those clauses in circumstances where a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated, intimidated, insulted or ridiculed;

(b) sexual harassment in the form of:
   (i) subjecting another person to an unsolicited act of physical contact of a sexual nature;
   (ii) making an unwelcome sexual advance or an unwelcome request for sexual favours to another person;
   (iii) making an unwelcome remark or statement with sexual connotations to another person or about another person in that person's presence;
   (iv) making any unwelcome gesture, action or comment of a sexual nature; or
   (v) engaging in conduct of a sexual nature in relation to another person that is offensive to that person in circumstances where a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated, intimidated, insulted or ridiculed.

(c) other forms of harassment including:
   (i) intrusive or inappropriate questions about a person's private life;
   (ii) unwelcome communications;
   (iii) improper promises or threats relating to a person's status at Council; or
(iv) actual or threatened physical violence.
(d) bullying behaviour, including;
(i) abusive or insulting behaviour;
(ii) yelling or screaming;
(iii) behaviour that humiliates, intimidates, belittles or degrades;
(iv) teasing or making a person the brunt of jokes;
(v) spreading malicious gossip, rumours or innuendo;
(vi) making improper demands regarding work performance; or
(vii) covert behaviour that is designed to undermine work performance or to cause personal distress.

Bullying does not, however, include reasonable management action taken in a reasonable manner to supervise and direct the performance of work, by setting reasonable goals and standards, monitoring and assessing work performance, and by taking appropriate remedial action where this is warranted.

(e) victimisation of a person making an harassment, bullying or discrimination complaint or providing information in connection with possible disciplinary proceedings that might arise from such a complaint;
(f) inciting hatred, serious contempt for or severe ridicule of a person or group of persons by a public act on the basis of race, disability, sexual orientation, lawful sexual activity, religious belief or affiliation; or
(g) publishing or displaying any matter that promotes, expresses or depicts discrimination or other prohibited conduct (except where the purpose is to discourage discrimination or other prohibited conduct).

4.2 Complaints Procedure

4.2.1 Whilst the Council will seek to encourage the resolution of complaints as close as possible to their point of origin through swift and informal means, Council has established procedures for dealing with complaints on a formal basis, with these procedures applying equally to other inappropriate conduct that does not fall within the ambit of this Policy.

4.2.2 Formal complaints need to be lodged within 12 months of the conduct which is the subject of the complaint.

4.3 Harassment and Discrimination Contact Officers

4.3.1 Council will appoint and provide training to Harassment and Discrimination Contact Officers, who will be the first point of contact for persons wishing to discuss how to have a complaint dealt with in accordance with this Policy and related procedures.

5.0 Definitions and Acronyms

5.1 *Discrimination*
   Either direct discrimination or indirect discrimination
5.2 Direct discrimination
Direct discrimination takes place if a person treats another person on the basis of any prescribed attribute as listed in either clause 4.1.2 or 4.1.3 of this Policy, imputed prescribed attribute or a characteristic imputed to that attribute less favourably than a person without that attribute or characteristic.

5.3 Indirect discrimination
Indirect discrimination takes place if a person imposes a condition, requirement or practices which is unreasonable in the circumstances and has the effect of disadvantaging a member of a group of people who:
(a) share, or are believed to share, a prescribed attribute; or
(b) share, or are believed to share, any of the characteristics imputed to that attribute – more than a person who is not a member of that group.

Other terms used in this Policy shall have the same meaning as in the Anti-Discrimination Act 1998 where such terms are also used in that legislation.

5.4 Harassment and Bullying
Harassment and/or bullying is repeated, unreasonable behaviour directed towards a worker or group of workers. It creates a risk to personal and workplace health and safety.

Harassment and bullying can be verbal, physical, written or electronic (such as emails & texting).

6.0 Supporting Documentation
- Harassment, Bullying and Discrimination Complaints Procedure
- Harassment, Bullying and Discrimination Reporting Form
1.0 Objective

1.1 To provide guidelines and procedures to assist in the prompt, confidential and effective resolution of complaints of harassment, bullying and/or discrimination so as to ensure that Council provides a safe and inclusive working environment.

2.0 Scope

2.1 This Procedure applies to all Councillors, Council employees, volunteers and work placement/work experience participants.

3.0 Procedure

3.1 Complaints Process – Generally

3.1.1 A person who has been the subject of conduct which they believe constitutes harassment; bullying or discrimination may make a formal complaint or may seek to have the matter resolved on an informal basis.

3.1.2 Council encourages any person who considers that they have been subject to conduct amounting to harassment, bullying or discrimination to discuss the matter with a Contact Officer in the first instance, who will explain possible options available for dealing with the conduct complained of.

3.1.3 Information provided by a complainant will be kept confidential and will not be shared with any other person unless there is a requirement to do so due to safety or breach of state law i.e. sexual assault, serious sexual harassment etc.

3.2.1 For a variety of reasons, it may be the case that a person seeks to resolve their complaint on an informal basis. This might involve the person communicating directly with the person with whom they have a concern and asking that they refrain from further conduct of that nature.

3.2.2 In appropriate cases Council may be able to assist in the informal resolution process by the appointment of a mediator agreed to by the parties involved, who may be able to help them resolve the matters in question.

3.2.3 For further guidance as to how a complaint might be handled on an informal basis, the person seeking to make a complaint should discuss the matter with a Contact Officer in the first instance.

3.3 Formal Complaints

3.3.1 Where a complainant seeks to have a complaint resolved formally in the first instance, or where the complainant’s endeavours to resolve a complaint informally have failed, he or she may choose to make a formal complaint. The particulars of the complaint should be submitted, in writing, to the General Manager or the Human Resource Co-ordinator.
3.3.2 Where formal disciplinary action against an employee is warranted, it is to be instituted in accordance with the disciplinary procedures applicable to the staff member concerned, as set out in the Enterprise Agreement. Any disciplinary action is to be initiated in accordance with these procedures following authorisation by the General Manager.

3.4 Complaints to External Agencies/bodies/commissions

3.4.1 Where a person chooses to make a formal complaint to an external body, such as the Tasmanian Office of the Anti-Discrimination Commissioner, consideration of a complaint made under this Procedure may need to be suspended pending the outcome of that external action.

3.5 Harassment and Discrimination Contact Officers

3.5.1 Council will appoint and provide training to Contact Officers, who will be able to provide complainants with information about possible options for dealing with the conduct complained of.

3.5.2 When a vacancy becomes available for the role of a Contact Officer, nominations will be sought from the relevant work are/section ie. Indoor/Outdoor/Childcare. Individuals will be able to nominate either themselves or other employees in the workplace who fit the criteria. If more than one candidate is nominated for that work area or section, an election will be held to determine the outcome.

3.5.3 Contact Officers will receive training in:

(a) the role of a Contact Officer (covering duties and responsibilities of the role, the principles underlying the role, and putting the principles into practice);
(b) relevant anti-discrimination legislation and the provisions of Council’s Harassment, Bullying and Discrimination Policy; and
(c) Interviewing techniques appropriate to alleged harassment, bullying or discrimination.

3.5.4 The role of a Contact Officer is to:

(a) act as a first point of contact for employees, Councillors or volunteers wishing to make enquiries, who have a harassment, bullying or discrimination complaint, or who simply want to sound out a concern;
(b) provide appropriate support to employees, Councillors or volunteers who may have experienced harassment, bullying or discrimination or who believe an allegation of harassment, bullying or discrimination may have been made against them, or believe that they have been victimised on account of taking action under this Procedure; and
(c) provide information (CO do not provide/give advice) and support on this Procedure and related Policy, so as to enable a complainant to make an informed choice as to how to deal with their matter of concern, by:
(i) treating all complaints seriously and listening with respect and empathy;
(ii) explaining what constitutes harassment, bullying or discrimination;
(iii) identifying the nature of the complaint and providing information about both internal and external avenues and options for dealing with complaints; and
(iv) providing information on Council policy and procedures and the possible stages involved in dealing with the complaint;
(v) documenting the procedure adopted and outcome; and
(vi) maintaining appropriate confidentiality at all times.

3.5.5 Council will, through targeted recruitment activities, seek to ensure that the Contact Officer membership provides diversity and gender balance.

3.6 Other Assistance

In addition to being able to seek information and assistance from Contact Officers – Councillors, Council employees, volunteers and work placement/work experience participants may also seek advice and assistance from their Union or from other persons qualified to give advice and assistance.

4.0 Supporting Documentation

- Council Contact Officers Poster
- Harassment and Discrimination Advice Checklist
- The Role of a Contact Officer
- Guide for Contact Officers
Date of enquirer’s visit/call: ………/…………/……….. Time: …………………………… am/pm (circle)

Was the enquiry made:
☐ in person  ☐ via telephone  ☐ via email  ☐ Other __________________________

☐ Tick to confirm that information was provided to the enquirer regarding confidentiality

Incident Details: (attach a separate sheet if necessary)

Date and time of incident(s): ______________________________________________________________________

Place of Incident(s):
☐ Within work environment: _____________________________________________ (Give details of location)
☐ Outside work environment: _____________________________________________ (Give details of location)

eg Depot, Childcare Centre, Council Offices, Wonders of Wynyard

Description of incident(s):
_____________________________________________________________________________________________
_____________________________________________________________________________________________
_____________________________________________________________________________________________

Details of any witness(es) to the incident (include number as necessary)
☐ Councillor  ☐ Employee  ☐ Volunteer  ☐ Work placement/Work Experience  ☐ Unknown

What strategies (if any) have already been tried in order to resolve the issue? (include date action was taken)
_____________________________________________________________________________________________
_____________________________________________________________________________________________
_____________________________________________________________________________________________
_____________________________________________________________________________________________

What further strategies/options for resolving the issue were discussed? (select as many as applicable)
☐ Direct discussion by complainant with respondent
☐ Confidential letter to respondent by the complainant
☐ Cooperation of the Manager and/or Human Resource Co-ordinator to respondent
☐ Request a conciliation conference
☐ Use of formal grievance process
☐ Use direct legal action under relevant legislation
☐ Other options

☐ If conciliation conference or formal investigation required – tick to confirm that complainant has consented to
the matter being referred to a higher authority

Actions Agreed – Outline any agreed actions to be taken (include dates action is to be taken by)
_____________________________________________________________________________________________
_____________________________________________________________________________________________
_____________________________________________________________________________________________
_____________________________________________________________________________________________

Submitted by:
Name:________________________________________________________________________________________
Signed: ___________________________ Date: ___________________________ Email: ___________________________

Forward to Human Resources Co-ordinator as soon as possible after receiving the complaint or enquiry in an
envelope marked “strictly confidential”
Complainants & Respondents

In this document, the person who has come to you with an inquiry or complaint is referred to as ‘the complainant’ even though they might just want information and not want to actually lodge a formal complaint. ‘The respondent’ is the person or group of people whose behaviour is causing concern to the complainant. Contact Officers provide impartial information and support to complainants and respondents, but not to both parties in the same dispute.

3D for Inquiries or Complaints

Discuss with the person who has an inquiry or complaint: the issues involved, outcomes the person wants and the options available to them.

Define key concepts to help a person to decide what action to take. Is what they are experiencing: discrimination, harassment, sexual harassment, bullying, victimisation?

Don’t advise. Your role is to support people in making their own decisions and to help make sure these decisions are well informed by knowledge of all the options available.

Informed decision

Your role is to provide information so that the individual can make a careful and informed decision that meets their needs.

Acting on Health and Safety

If you are told about a situation that involves an immediate risk to occupational health and safety by someone who does not yet want to take any action to resolve the issue, you may need to raise the matter confidentially with an OH&S representative, human resources, or another appropriate manager.

1.0 Discuss

1.1 Confidential discussion with individuals who have inquiries or complaints is the single most important role of the Contact Officer.

1.2 Contact Officers listen carefully and impartially, help people to identify the issues in their situation, the outcomes they want and the options available to them to achieve these.

1.3 Inform the individual of their rights under your workplace policies and procedures and under State and Federal Anti-Discrimination law.

1.4 The policies and procedures of most organisations focus on solving discrimination or harassment problems in the workplace.

1.5 Some complainants will prefer to use an external process such as lodging a complaint with the Office of the Anti-Discrimination Commission (OADC). A Contact Officer should inform all complainants of their right to do so and, if necessary, provide them with the contact telephone number for the OADC.

1.6 In your introduction of your role as CO you must explain that you will maintain confidentiality but if you tell me something that breaches state law or puts yourself in harm or others in harm then I have a duty of care as CO to report this. I need to let you know this upfront before you start to tell me what the issue is you have come to see me about. If it doesn’t fall under this then I will maintain confidentiality.
(CO needs to tell this upfront, so the complainant can choose whether to disclose or not but not to be told, then disclose, then told sorry I can’t keep that to myself is not ok and the complainant will not be happy being told later on in the conversation.

2.0 Define

2.1 Depending on the circumstances of the inquiry or complaint, you will often need to explain the meaning of discrimination, harassment, sexual harassment, bullying or victimisation.

2.2 To help all staff understand what constitutes appropriate and inappropriate workplace behaviour, the OADC recommends that specified definitions also be included as part of your organisation’s equal opportunity, anti-bullying and harassment policies.

2.3 Contact Officers do not give legal advice or try to decide whether any behaviour they hear described actually is ‘discrimination’ or ‘harassment’. It is enough to provide general information about definitions to help people decide how they will handle the situation.

3.0 Don’t give advice

3.1 It is very important to stay impartial. The Contact Officer should not have a personal investment in what choice an individual makes. If you feel yourself getting involved in a particular situation or complaint, it would be wise to step back and work out your own issues. Separate personal issues from those of the person seeking your assistance and deal with them separately. If you find this is impossible, refer the person to another Contact Officer.

3.2 It is useful to have extra copies of your organisation’s bullying, harassment and discrimination policies and procedures to give to staff on request, especially those who approach you for information and support.

4.0 Refer

4.1 Counselling

4.1.1 Contact Officers assist individuals to handle the emotional aspects of a situation by helping them to make an informed decision on what action to take and by reassuring them that they are within their rights.

4.1.2 Contact Officers do not offer counselling. If emotional support or help with personal, work-related problem-solving is needed, the best support you can provide is to refer the person to a counsellor.

4.1.3 Refer the employee to Council’s employee assistance program (EAP) or encourage access to other counselling services.

4.1.4 Be careful when suggesting that an individual consult a counsellor. Some people may be offended if they feel you’re saying there is something ‘wrong’ with them.
4.1.5 Individuals with complaints may benefit from the Contact Officer reassuring them that they can both get counselling to manage any distress caused by their situation and also take action to remove the cause of the problem.

4.2 Investigation

4.2.1 It is not the role of a Contact Officer to investigate complaints. If a staff member decides to lodge a formal complaint, you will refer them to the person in your organisation who is responsible for investigating complaints of harassment or discrimination. This will usually be someone from the human resources department or another senior manager.

4.3 External sources of support and information

4.3.1 Sometimes someone outside your organisation can help a person with an inquiry or complaint. This might be the OADC or it might be a local community group, support group or resource centre. It is a good idea to keep a file of organisations that you can refer people to.

5.0 Act

5.1 Contact Officers act on behalf of the organisation. In that role they are authorised to provide other employees with information and support on discrimination, harassment, bullying and sexual harassment. Contact Officers do not act or speak on behalf of others (advocacy).

5.2 If you act within the confines of the Contact Officer role and make appropriate referrals then you will have provided a valuable contribution to the process of resolution.

5.3 Sometimes Contact Officers may be approached and told about situations that seem to present a serious threat to the health and safety of other staff.

5.4 If the person who has approached you does not want to take any further action, this can create a dilemma. You may feel an obligation to take action to remove the danger to staff, yet as Contact Officer you must at all times respect the confidentiality of the person who approached you.

5.5 If this situation arises:
   (i) Ensure that the person knows that Anti-Discrimination law, (and most workplace policies and procedures) prohibit victimisation of anyone who makes a complaint;
   (ii) Ensure that the person knows all of their options for taking action to remove the source of the problem, including seeking help from the Anti-Discrimination Commission or elsewhere outside the organisation;
   (iii) Share with the person your concern that some action may be needed to protect them and other staff from what may be a threat to health and safety;
   (iv) Tell them that you must talk privately and without identifying them to an appropriate person (eg OH&S Officer, human resources or appropriate manager) about health and safety measures that could be implemented to avoid danger to them and other staff. Make a follow up date to talk with them about the outcome of this meeting;
(v) Among the range of options, you encourage them to consider, provide contact details for the relevant OH&S representative;
(vi) Whatever the outcome of this discussion, make an appointment to meet with this person again in a few days or a week to chat with them in private. Check how they are and whether the situation has improved or worsened; and
(vii) If you are in doubt about what to do in any difficult situation, you can ask for confidential advice from human resources.

6.0 Conflicts of interest

6.1 It is simplest if Contact Officers have no other roles at work that might complicate their responsibilities as a Contact Officer.

6.2 Difficulties can arise if a Contact Officer is also:

(a) A union representative;
(b) Responsible for investigating complaints of discrimination, harassment or bullying; and
(c) Supervising or managing staff (if they are the only Contact Officer available to more junior staff).

6.3 If you are a Contact Officer who has one of these other roles, there are ways to manage potential conflicts of interest.

6.4 It might be a conflict of interest if you are a close friend of the person approaching you for support, but only if you feel your friendship will stop you being impartial.

7.0 Managing conflicts of interest

7.1 If you are both a Contact Officer and
(a) A supervisor or manager;
(b) A union representative;
(c) An occupational health and safety representative;
(d) Responsible for investigating complaints; and
(e) A close friend of the person approaching you.

7.2 Then you must take steps each time someone comes to you in your Contact Officer role.

7.2.1 Ask the person who has approached you if they are speaking with you in your role as Contact Officer or in one of your other roles.

7.2.2 Ask the person to describe their inquiry or complaint very generally without naming any names.
7.2.3 Go through the Contact Checklist with them. Make clear what you can and cannot do as a Contact Officer.

7.2.4 Ask the person with the inquiry or complaint if they would prefer to have their inquiry or complaint handled by another Contact Officer, another staff member or externally.

7.2.5 If either you or the person who has approached you is not 100 per cent confident that you can provide them with impartial information, support and confidentiality, refer them to another Contact Officer in your organisation, another staff member (e.g., human resources) or an external agency such as the OADC.

8.0 Bias

8.1 A Contact Officer must be able to deal with the complaint impartially and without bias. If for some reason the Contact Officer feels they are too close to the situation, and their judgement may be impaired, the matter should be passed on to another Contact Officer explaining the reasons for this.

8.1.1 If after hearing their story you do not feel as though you are the right person to be dealing with their grievance, or you are too close to the situation, or your ability to deal with the matter may be impaired, refer them to someone else, explaining by saying you have a 'conflict of interest'.

8.1.2 Be supportive and empathic without taking on their issue.

9.0 Stay within your boundaries

9.1 Your effectiveness as a Contact Officer depends on you knowing what the role involves and what it does not.
1.0 Purpose

1.1 Provide employees access to information and support to resolve discrimination, harassment or bullying in the workplace through appointed Contact Officers.

2.0 Duties

2.1 The role is very important as Contact Officers allow employees to determine how they can best resolve their issue—either by tackling it themselves, making use of the workplace complaint procedures, or by some other external means.

2.2 Contact Officer/s ensures that employees:

2.2.1 Have access to information about complaint resolution options within and outside the organisation

2.2.2 Receive appropriate support to make informed decisions about how to resolve complaints.

3.0 Framework and Conditions of Appointment

3.1 Contact Officers take on this appointment, in a voluntary capacity, additional to the position they are employed to undertake.

3.2 Contact Officers will be suitably trained to provide staff with confidential information and support to resolve discrimination, harassment or bullying in the workplace.

3.3 The Contact Officer position description outlines the parameters of the role, and associated responsibilities, to ensure:
(a) Contact Officers know their role
(b) Contact Officers can get authority and support from all levels of management to perform their role
(c) The role is clearly understood by others in the organisation
(d) All Contact Officers within an organisation are working to the same set of standards and expectations.

4.0 Criteria for the Contact Officer

4.1 The Contact Officer must be:
(a) Accessible to meet with staff who have concerns (time, working hours, location);
(b) Trusted by staff;
(c) Able to be impartial when acting as Contact Officer with staff regardless of friendships or other connections;
(d) Calm;
(e) Non-judgemental;
(f) A good listener with effective communication skills;
(g) Interested in the role; and
(h) Committed to fairness and a safe workplace.
5.0 How many Contact Officers?

5.1 Council work sites will be represented by:
   (i) Two (2) Outdoor Contact Officers
   (ii) Two (2) Indoor Contact Officers
   (iii) One (1) Children’s Services Contact Officer

6.0 Appointment of a Contact Officer

6.1 Filling a Vacancy/Appointing a Contact Officer

6.1.1 When a vacancy becomes available for the role of a Contact Officer, nominations will be sought from the relevant work area/section i.e. Indoor/outdoor/childcare.

6.2 Peer nomination / expression of interest

6.2.1 Individuals will be able to nominate either themselves, or other employees in the workplace who fit the criteria.

6.2.2 If more than one candidate is nominated for that work area or section, an election will be held to determine the outcome.

7.0 Promoting the Role

7.1 Promoting the role of Contact Officers is an ongoing task and will be repeated on a regular cycle (e.g. every three months) and whenever there is change to who the Contact Officers are.

7.2 Options for publicising the role of the Contact Officers include (but not limited to):

7.2.1 Noticeboards:
   (a) Flyer with the names and photos of the Contact Officers to be displayed on all staff noticeboards, in the staff room or anywhere staff gathers. Include a simple statement such as “These Contact Officers are available to provide confidential information and support to anyone with an inquiry or complaint about harassment, discrimination, sexual harassment, bullying or victimisation.”

7.2.2 Staff meetings:
   (a) Short announcement at team meetings or other staff meetings.

7.2.3 Management meetings:
   (a) Whoever is responsible for supporting the Contact Officers in your organisation (e.g. human resources) to make an announcement at the management team so that all managers know who the Contact Officers are.
7.2.4 Intranet/website/network:

(a) Arrange to have a button on the front page of your intranet/organisational website or network that links to a page that includes telephone and email contact details for all your Contact Officers as well as links to the relevant organisational policies and procedures.

7.2.5 Targeted announcement:

(a) Staff in the organisation that hold key roles will be required to know about the Contact Officers. This includes managers (see above), occupational health and safety (OH&S) representatives and union delegates. Make a list of these people in your organisation along with their contact details.