

POLICY NO AND TITLE	1.2.1	Conditions of employment policy
PROCEDURE	1.2.1(ae)	Carers' responsibility
VERSION AND DATE ADOPTED	1	
RESPONSIBLE OFFICER		Manager Human Resources

Introduction

Council is wholly committed to the principle of Equal Employment Opportunity and is aware of its obligations under the Anti Discrimination Act and particularly, the amendments introduced in 2001 relating to Carers' responsibilities.

In all policies and practices of the council there shall be no discrimination relating to employees or Councillors who have responsibilities to care for or support a family member who is in need of care or support.

Selection of individuals for employment, promotion or advancement, training and staff development will be on the basis of personal merit in fair and open competition according to the skills, qualifications, knowledge and level of ability to carry out the duties involved in the position. There will be no contrived barriers to prospective employees who may have carers' responsibilities at present or at some future stage.

Council will attempt to provide flexibility in its work practices and/or other arrangements to meet the requirements of employees or Councillors with carer responsibilities provided that there is no "unjustifiable hardship" to Council.

Council's Policy on Equal Employment Opportunity reflects our desire to enjoy a workplace free of discrimination where each person has the opportunity to progress to the extent of their ability.

Carers' Responsibilities - Background

Carer's Responsibilities amendments to the Anti Discrimination Act were proclaimed and became effective from 1 March 2001.

These amendments to the Anti Discrimination Act makes it unlawful to discriminate against an employee because they have the responsibility as a carer or are thought to/ or will have such a responsibility. Councils are also advised that this provision also applies to councillors. Carers' responsibilities is defined as a persons responsibility to care for or support a family member who is need of care or support. The provision will cover the following relationships of an employee or councillor providing care for the following family member:

- children
- children of their current or ex husband, wife, de facto opposite sex partner or de facto same sex partner
- wife, husband, de facto opposite sex partner or de facto same sex partner
- former wife, husband, de facto opposite sex partner or de facto same sex partner
- grandchildren

- grandchildren of former wife, husband, de facto opposite sex partner or de facto same sex partner.
- parents
- parents of their current or former wife, husband, de facto opposite sex partner or de facto same sex partner
- grandparents
- grandparents of former wife, husband, de facto opposite sex partner or de facto same sex partner
- brother
- brother of former wife, husband, de facto opposite sex partner or de facto same sex partner
- sister
- sister of former wife, husband, de facto opposite sex partner or de facto same sex partner.

If the person requiring care and support falls outside of these family relationships then they are not covered by the carer's responsibilities amendments. For example, these provisions do not cover an employee caring for a niece or nephew. Council require proof from the employee before acceding to any requests.

Under the Anti Discrimination Act, the defence of unjustifiable hardship is relevant to discrimination on the ground of carers' responsibilities in employment only with respect to the offer and termination of employment. If the issue is not one of recruitment or termination of employment, but relates to the terms and conditions of employment for an existing employee or that employee's access to opportunities for promotion, transfer, training or other benefits, council needs to analyse whether a failure to accommodate an existing employee's carer's responsibilities could amount to direct or indirect discrimination.

Before council advertises a position, they need to identify any inherent requirements of that position. Council will then consider whether any arrangements could be made to enable a person with carers' responsibilities to carry out those requirements. Those people seeking employment with council should be made aware at the beginning of the recruitment process as to what are the inherent requirements of the position. These inherent requirements will be reflected in the job description and in the process of advertising for the position. Council can refuse to employ a person because the nature of their responsibility as a carer means that they can not undertake the inherent requirements of the position. However, council will ensure against any contrived essential criteria that acts as an artificial barrier to someone with the responsibility as a carer gaining that position.

Guidelines/ Procedures

In general, council will not take an employee's actual, past, presumed or future carer's responsibilities into account when arranging work practices.

Council will, where practical or financially reasonable, adapt existing work practices in order to meet an employees/ councillors responsibilities as a carer.

Council may consider the following to assist in meeting these requirements:

- allowing employees to work from home some days of the week
- changing an employee's working hours by agreement

- allowing employees to do their working hours over fewer days
- granting access to unpaid leave
- varying meeting times.

All requests for consideration of carers' responsibilities including variation of work arrangements should initially be discussed with the immediate Manager who shall consult with the Human Resources Manager.

A written request should then be made to the relevant Director who will make a recommendation to be considered by the General Manager.

Certain requests may be approved for a trial period to enable the impacts of any variation to be considered.

Confidentiality will be maintained at all times.