
Equal Employment Opportunity (EEO) Policy and Guidelines

1. POLICY

Corrective Services NSW (CSNSW) has an obligation and is committed to provide a workplace that is equitable, diverse and culturally inclusive, through the effective implementation of EEO principles. It is also committed to provide a workplace free from all forms of unlawful discrimination, bullying and harassment.

Not only is this a legal imperative under both Commonwealth and State laws, but it also recognises the social and business benefits to CSNSW and its staff by:

- fostering a fair, safe, flexible and harmonious workplace; and
- promoting a diverse, skilled and more productive workforce.

CSNSW aims to achieve fair and equitable practices in all areas of employment including:

- recruitment, selection and promotion practices that are open, competitive and based solely on merit;
- fair and equitable access to employment opportunities, benefits and services for all employees;
- the right for all employees to develop their skills, advance their careers, and balance work and personal commitments, including family responsibilities;
- effective grievance handling procedures to deal with workplace complaints fairly, promptly and confidentially; and
- recognition and respect for the culturally and linguistically diverse backgrounds of employees and members of the community.

In addition, CSNSW is committed to identifying arbitrary or hidden barriers which may inhibit or prevent the uptake of these opportunities and services by minority or disadvantaged groups, and to developing and implementing appropriate workplace strategies, programs and practices to overcome them.

The CSNSW workforce should reflect the diversity of the wider community it serves. The EEO policy supports and is aligned to the 'Principles of Multiculturalism', outlined in the NSW Community Relations Commission [Multicultural Policies and Services Program](#). It is also aligned to the relevant priorities and targets outlined in the *NSW State Plan*.

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For CSNSW to effectively implement the principles of EEO and workplace diversity, all employees must be aware of their responsibilities and are expected to take an active role.

2. SCOPE

This policy applies to all employees working for CSNSW and those engaged by other agencies, including consultants, contractors and voluntary workers, on behalf of CSNSW.

3. STRATEGIC FOCUS

The principal aim of the EEO policy is to comply with the relevant provisions of the *Anti-Discrimination Act 1977*, which require that all employees and prospective employees have equal access to the opportunities and services that are available at work by:

- ensuring that the workplace is free from all forms of unlawful discrimination, bullying and harassment; and
- developing and implementing strategies and programs to assist members of EEO groups to overcome past and present disadvantage.

As part of its broader equity and diversity policy framework, CSNSW aims to ensure that equal opportunities in employment are provided to *all* employees, so that everyone can realise their full potential in the workplace.

4. EEO GROUPS

EEO groups are people affected by past and continuing disadvantage or discrimination in employment. Under the *Anti-Discrimination Act 1977* these groups include:

- women;
- Aboriginal people and Torres Strait Islanders;
- members of racial, ethnic, and ethno-religious minority groups; and
- people with a disability.

The NSW Government has set specific employment benchmarks or targets in the Public Sector for the following EEO groups:

- 50% for women;
- 2.6%¹ for Aboriginal people and Torres Strait Islanders ;
- 19% for people whose first language was not English; and
- 1.5%² for people with disabilities requiring work-related adjustments.

The benchmarks are based on the estimated representation of the EEO groups in the NSW working population (ages 15 to 64).

¹ By 2015

² By 2012/13

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CSNSW is committed to the NSW Government employment targets, through the development and implementation of this policy, the 'EEO Management Plan' and related workplace strategies.

5. EEO MANAGEMENT PLAN

Under Part 9A (section 122J) of the *Anti-Discrimination Act 1977*, CSNSW is required to prepare and implement an 'EEO Management Plan'. CSNSW is also required under the *Annual Reports (Departments) Regulation 2010* to report annually on EEO achievements during the reporting year and planned outcomes for the following year. This information is published in the CSNSW *Annual Report*.

The current CSNSW 'EEO Management Plan' is available on the intranet and is titled the [Equity and Diversity Plan 2011-2014](#). The plan outlines the strategies, actions and performance indicators that CSNSW has adopted to improve outcomes for each of the above EEO groups.

CSNSW may apply affirmative action strategies to the EEO groups, where appropriate, such as running career or management development programs for women or Aboriginals and Torres Strait Islanders. Including such strategies in the 'EEO Management Plan' removes the need to apply for an exemption to the *Anti-Discrimination Act 1977*. Clause 6 of the *Public Sector Employment and Management Regulation 2009* also provides for selection procedures for the appointment of a person belonging to a disadvantaged group.

The *Equity and Diversity Plan 2011-2014* is complemented and supported by other CSNSW strategic plans which aim to deliver improved outcomes for EEO groups. These plans are the *Aboriginal and Torres Strait Islander Employment and Career Strategy*, *Cultural and Linguistic Diversity Strategic Plan 2010-2012* and *Disability Action Plan 2009-2011*.

6. EEO DATA COLLECTION

In order for CSNSW to measure the success of existing EEO recruitment and career development strategies and programs, and to assist with the development of better policies, it is important to collect accurate data on EEO groups.

Although not mandatory, all employees are encouraged to complete the EEO Data Collection survey. The information remains strictly confidential and is de-identified for reporting purposes. EEO information is protected in accordance with the *Privacy and Personal Information Protection Act 1998*.

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7. DISCRIMINATION

Except where an exemption has been granted under the *Anti-Discrimination Act 1977*, it is against the law in NSW for any employer to discriminate against an employee or job applicant because of their:

- sex (including pregnancy and breast feeding);
- race, colour, ethnic or ethno-religious background or nationality;
- marital or domestic status;
- disability (including past, present or possible future disability);
- homosexuality (male or female, actual or presumed);
- age (including not forcing people to retire at any particular age);
- transgender status;
- carer's responsibilities; and
- association with someone with one or more of the above.

Both **direct** and **indirect** discrimination are against the law.

7.1 Direct discrimination

A person discriminates against another person if they treat a person less favourably in the same circumstances, or in circumstances which are not materially different, because of their race, sex (including pregnancy, childbirth and breastfeeding), marital or domestic status, homosexuality, age, transgender status or carers' responsibilities.

For example, if an employer does not employ someone just because they are a woman, or of a particular race, this is likely to be direct discrimination. It could be direct age discrimination if an older person is not employed in an office job because it is assumed that they no longer have the ability to learn new computer programs.

7.2 Indirect discrimination

Employers must ensure that they do not indirectly discriminate against people. Indirect discrimination occurs when a rule or requirement disadvantages one group more than another – unless the employer can establish that a particular rule or requirement is “reasonable in all circumstances”.

For example, a requirement that an employee must be over 180cm in height to do a particular job might discriminate against women and some ethnic groups. It may be discrimination if the job does not really need someone to be 180cm in height or could easily be adapted to suit people of lesser height.

7.3 Vilification

It is against the law to vilify a person on the grounds of their race, homosexuality, transgender or HIV/AIDS status. Vilification is defined as behaviour that incites others, by a public act, to hate, have serious contempt

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for or severely ridicule a person or group of persons on these grounds. A 'public act' includes any form of communication to the public either verbal or in writing; any conduct that is observable by the public, including actions and gestures; and the knowing distribution or dissemination of matter that vilifies.

7.4 Victimisation

It is unlawful to victimise a person because they make a complaint or a claim of discrimination or because they provide evidence (or similar) with respect to a claim of discrimination.

8. BULLYING AND HARASSMENT

8.1 Bullying

Bullying, as defined by WorkCover NSW, is repeated unreasonable behaviour directed towards a worker or group of workers that creates a risk to health and safety².

A broad range of behaviours can be bullying, including verbal abuse; putting someone down; spreading rumours or innuendo about someone; interfering with someone's personal property or work equipment; unjustified criticism or complaints; deliberately excluding someone from workplace activities; deliberately denying access to information or other resources; withholding information that is vital for effective work performance; setting tasks that are unreasonably above or below a worker's ability; deliberately changing work arrangements, such as rosters and leave, to inconvenience a particular worker or workers; setting timelines that are very difficult to achieve; excessive scrutiny at work.

Bullying can be carried out verbally, physically or in writing (including electronic social media). Bullying can be directed in a range of ways in a workplace: downwards (from managers to workers); sideways (between workers or co-workers); and upwards (from workers to managers). Bullying can be directed at a single worker or at more than one worker. It can be carried out by one or more workers.

Managers have the right to give lawful instructions and provide counselling to staff in relation to poor performance. This, in itself, is not considered bullying or harassment.

8.2 Harassment

A person is harassed if they are subjected to behaviour that they do not want, that offends, humiliates or intimidates, and they are targeted because of their

² *Preventing and Responding to Bullying at Work, Edition No. 3, June 2009, WorkCover NSW*

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sex, pregnancy, breastfeeding, race, age, marital status, homosexuality, disability, transgender status or carers' responsibilities³.

Harassment can be a form of discrimination.

8.3 Sexual harassment

A person sexually harasses another person if:

- (a) the person makes an unwelcome sexual advance or an unwelcome request for sexual favours to the other person; or
- (b) the person engages in other unwelcome conduct of a sexual nature in relation to the other person;

in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated⁴.

8.4 Further information

For further information about what constitutes bullying or harassment and about the procedures for dealing with grievances, employees should refer to the [Managing Work-Related Bullying and Harassment Policy](#) and the [Grievance Management Policy and Guidelines](#).

9. RESPONSIBILITIES

Under the EEO policy, all CSNSW employees and managers have rights and responsibilities.

9.1 Employees

All CSNSW employees are entitled to be treated fairly and to work in an environment free from discrimination, bullying and harassment. In addition, employees have the right:

- to be considered for promotion based on merit;
- to choose an individual career path;
- of equal access to, and opportunity for, appropriate learning and development opportunities; and
- of access to all appropriate benefits and conditions.

³ *Anti-Discrimination Board Fact Sheet: Discrimination, EEO & Affirmative Action (revised March, 2011)*

⁴ *Section 28A of the Sex Discrimination Act 1984 (Commonwealth)*

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Employees have a general responsibility to treat others in a fair and respectful manner and to adhere to EEO principles to:

- respect the cultural and social diversity of colleagues and other contacts; and
- contribute to the development of a productive and harmonious workplace.

All employees are responsible for helping prevent unlawful discrimination in the workplace.

9.2 Managers

Managers have the same rights and responsibilities as all employees. They also have the responsibility for creating and maintaining a productive, positive and safe work environment, which is free of bullying and harassment and unlawful discrimination.

All managers have a general responsibility to:

- model and maintain acceptable standards of conduct;
- ensure that employees are aware of their rights and responsibilities; and
- manage effectively employee grievances in accordance with CSNSW policy.

In addition, managers must ensure that all employees have:

- access to legislation and other information that will assist them to carry out their duties; and
- equal opportunity to:
 - increase their skills to meet work demands;
 - attend appropriate training courses;
 - undertake development opportunities, including higher duties; and
 - apply for all available jobs suited to their skills and capabilities.

All managers should take into account and apply EEO principles in the development of workplace policies, practices and programs to ensure that they are not discriminatory (directly or indirectly) or disadvantage any particular individual or group.

All managers should be prepared to provide information and advice about equity and diversity issues in the workplace. They should familiarise themselves with this policy and related documentation.

10. ADVICE AND SUPPORT

Staff are available in the regions and elsewhere to provide practical advice and assistance to employees on EEO issues. The Manager, Equity and Diversity and the Aboriginal Employment and Careers Officer are available to

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provide specialist advice and guidance on EEO and diversity policies and related workplace practices.

Contact details are as follows:

- Human Resources Managers⁵
- Senior Project Officer, Workplace Behaviour Tel: (02) 8346 1056
- Manager, Equity and Diversity Tel: (02) 8346 1883
- Aboriginal Employment and Careers Officer Tel: (02) 8346 1437
- Coordinator, Cultural and Linguistic Diversity Tel: (02) 8346 1018
- Manager, Staff Support Tel: (02) 8346 1338
- Employee Assistance Program (EAP) Tel: 1300 363 202

11. ADDITIONAL EEO AND DIVERSITY RESOURCES

- **NSW Premier and Cabinet Equal Employment Opportunity**
Website: www.eeo.nsw.gov.au
- **NSW Anti-Discrimination Board**
Website: www.lawlink.nsw.gov.au/adb Tel: (02) 9268 5555
- **Human Rights and Equal Opportunity Commission**
Website: www.hreoc.gov.au Tel: (02) 9284 9600
- **Ethnic Communities Council of NSW**
Website: www.eccnsw.org.au Tel: (02) 9319 0288
- **NSW Community Relations Commission**
Website: www.crc.nsw.gov.au Tel: (02) 8255 6767
- **Disability Council of NSW**
Website: www.disabilitycouncil.nsw.gov.au Tel/TTY: (02) 9211 2866
Tollfree (Voice/TTY): 1800 044 848
- **Equal Opportunity for Women in the Workplace Agency**
Website: www.eowa.gov.au Tel: (02) 9448 8500
- **WorkCover Authority of NSW**
Website: www.workcover.nsw.gov.au Tel: (02) 4321 5000

12. OTHER REFERENCES

12.1 Strategic plans

CSNSW

- Equity and Diversity Plan 2011-2014
- Aboriginal and Torres Strait Islander Employment and Career Strategy
- Cultural and Linguistic Diversity Strategic Plan 2010-2012
- Disability Action Plan 2009-2011

⁵ Contact details are available on the intranet at *Phone Directory >> Phone List >> Corporate Services >> Human Resources Division >> Human Resources Services*

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Copies of these plans can be found on the intranet at *Organisation >> Corporate Services >> Human Resources Division >> Equity and Diversity >> CSNSW Equity and Diversity Plans.*

NSW Department of Premier and Cabinet

- EmployABILITY – A strategy to increase employment opportunities for people with a disability in the NSW public sector 2010-2013
- Making It Our Business – The NSW Aboriginal Employment Action Plan 2009-2012
- NSW Public Sector Workforce Strategy 2008-2012
- NSW Carers Action Plan 2007-2012

12.2 CSNSW policies and guidelines

- Managing Work-related Bullying and Harassment
- Grievance Management Policy and Guidelines
- Guide to Conduct and Ethics
- Transgender employees – managing workplace issues

Human Resources policies and guidelines can be found on the intranet at *Policy & Procedures >> Policy Directory Table >> Human Resources.*

13. LEGISLATION

- Anti-Discrimination Act 1977 (NSW)
- Disability Services Act 1993 (NSW)
- Occupational Health and Safety Act 2000 (NSW)
- Community Relations Commission and Principles of Multiculturalism Act 2000 (NSW)
- Racial Discrimination Act 1975 (Cth)
- Sex Discrimination Act 1984 (Cth)
- Disability Discrimination Act 1992 (Cth)
- Age Discrimination Act 2004 (Cth)
- Australian Human Rights Commission Act 1986 (Cth)
- Equal Opportunity for Women in the Workplace Act 1999 (Cth)
- Workplace Relations and Other Legislation Amendment Act 1996 (Cth)

14. IMPLEMENTATION AND REVIEW

This policy supersedes the Equal Employment Opportunity Policy document issued in January 2008.

Date approved: 30 May 2011

Review date: 30 May 2014

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Ownership: Assistant Commissioner, Office of the Commissioner and Human Resources is assigned ownership to ensure the policy is maintained and updated.

Contact: Manager Equity and Diversity (02) 8346 1883

File: 10/30586

15. DOCUMENT HISTORY

Version	Date	Reason for amendment
D08/219585	15/01/2008	Initial policy statement.
D10/504193	25/06/2010	Update organisation name, minor wording changes and Document History added
D10/648829	30/05/2011	Major review.
D11/423147	17/08/2011	Minor update to include reference to the new Equity and Diversity Plan 2011-2014.
D11/496518	29/09/2011	Update in Clause 5 to refer to Annual Reports (Departments) Regulation 2010