



South Gippsland Shire Council

## HUMAN RIGHTS POLICY (C52)

Policy Number C52  
 Council Meeting 19 May 2021  
 Meeting Item No. TBC  
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Directorate  
 Department  
 Primary Author

Performance and Innovation  
 Governance  
 Council Business

COUNCIL POLICY

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### GOOD GOVERNANCE FRAMEWORK – HUMAN RIGHTS POLICY (C52)

#### *Overarching Principle*

*The Human Rights Policy confirms Council's commitment to considering and respecting human rights when making decisions, creating Local Laws and establishing policy direction.*

*The Policy plays an important role within the Good Governance Framework by supporting the pillars of 'Structure, Systems and Policies', 'Risk and Compliance' and 'Culture and Compliance' by ensuring the organisation is respecting human rights within the organisation.*

#### 1. PURPOSE

The purpose of this Policy is to protect and promote human rights. Human rights are the basic rights that belong to every human being. They are recognised internationally as the base standards required for governments, societies and communities to operate in a respectful and peaceful manner. Human rights recognise and respect the dignity of all people.

Human rights provide the foundation for freedom, justice, peace and respect, and are an essential part of any democratic society that respects the rule of law, human dignity and equality.

This Policy confirms Council's commitment to considering and respecting human rights when making decisions and creating and setting policy directions.

#### 2. SCOPE

The scope of this Policy applies to all Councillors, officers and volunteers in their day to day operations, interactions with people and in their decision making functions.

#### 3. POLICY PRINCIPLES

##### 3.1 Victorian Charter of Human Rights and Responsibilities

3.1.1 The *Victorian Charter of Human Rights and Responsibilities Act 2006* (the Charter) is a law that protects the human rights of all people in Victoria. It recognises that "all people are born free and equal in dignity and human rights". Its principles include:

- a. Human rights are essential in a democratic and inclusive society that respects the rule of law, human dignity, equality and freedom;

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- b. Human rights belong to all people without discrimination, and the diversity of the people within the Shire enhances our community;
- c. Human rights come with responsibilities and must be exercised in a way that respects the human rights of others;
- d. Human rights have a special importance for the indigenous people of Victoria, as descendants of Australia's first people, with their diverse spiritual, social, cultural and economic relationship with the traditional lands and waters.

3.1.2 All local government authorities have a responsibility under the Charter to act in a way that is compatible with human rights.

This *Human Rights Policy*:

**3.2 Sets out Council's responsibility to act in ways that are compatible with human rights. This included taking into account human rights when developing and implementing local laws, policies, procedures, decisions and delivering services.**

3.2.1 Council's approach to human rights will encourage participation, access, development and opportunity for its community, whilst acknowledging that it has an obligation to comply with the Charter.

3.2.2 This Policy will support achievement of Council aspirations set out in the objectives and strategies of Council's four-year Council Plan.

3.2.3 A reference to the Charter has been included in Council's policy template to ensure Council is meeting the obligations set out in the Charter in all policy related decisions.

3.2.4 Members of the community who wish to make a complaint in relation to an alleged breach of Council in upholding human rights, can do so by contacting Council directly at [council@southgippsland.vic.gov.au](mailto:council@southgippsland.vic.gov.au) or on 03 5662 9200. Council's Customer Service Charter is also available on Council's website.

**3.3 Outlines the human rights articulated in the *Victorian Charter of Human Rights and Responsibilities Act 2006 (the Charter)***

3.3.1 The human rights protected by the Charter are divided into four categories: **freedom, respect, equality and dignity**. The human rights are:

- Freedom from forced work
- Freedom of movement
- Freedom of thought, conscience, religion and belief
- Freedom of expression
- Right to peaceful assembly and freedom of association
- Property rights
- Right to liberty and security of person
- Fair hearing
- Rights in criminal proceedings
- Right not to be tried and punished more than once
- Protection from retrospective criminal laws



### **Respect**

- Right to life
- Protection of families and children
- Cultural rights, including recognition that human rights have a special importance for Aboriginal people of Victoria

### **Equality**

- Recognition and equality before the law
- Entitlement to participate in public life (including voting)

### **Dignity**

- Prohibition on torture and cruel, inhuman or degrading treatment
- Protection of privacy and reputation
- Humane treatment when deprived of liberty
- Appropriate treatment of children in the criminal process

### **3.4 The Charter recognises that human rights are not absolute but may be limited in certain circumstances. Under the Charter rights may be limited, but only when justified in a free and democratic society, taking into account relevant factors as outlined in the Charter. To this end Council considers:**

3.4.1 A reasonable limitation involves balancing the rights of the individual with the rights of the community and other relevant considerations. Examples include but are not limited to the following:

3.4.1.1 The fact that a decision or action impacts on a human right does not mean the decision or action will be incompatible with the Charter.

3.4.1.2 The right to freedom of expression may be restricted in order to respect the rights and reputations of other people or for the protection of public order, security, health or morality.

3.4.1.3 Limitations on rights are to be reasonable, justified, proportionate, rational and balanced.

## **4. RISK ASSESSMENT**

In order to comply with its obligations under the *Local Government Act 2020* and maintain the trust and confidence of the community, it is critical that Council and Councillors maintain the highest possible standards of good governance, integrity, ethical behaviour and conduct.

Council, as a public authority must act in ways that are compatible with human rights.

This Policy minimises the risk of Council potentially breaching human rights by:

### **4.1 Financial Risk**

4.1.1 Providing a mechanism outside of the courts for individuals to raise human rights concerns with Council that relate to Council operations (refer to 3.2.4 of this Policy).



## 4.2 Reputational

- 4.2.1 Being accountable for decisions made that affect an individual's human rights and considering human rights in the development of policy directions, seeks to minimise Council's reputation.
- 4.2.2 Establishing specific directions in associated policies, guidelines and codes of practice that assist staff, Councillors and volunteers to understand appropriate behaviours and responsibilities in the workplace.

## 4.3 Openness and Transparency

- 4.3.1 This Policy provides guidance in ensuring the organisation is protecting human rights within the organisation and on behalf of the Shire as a whole.

## 5. IMPLEMENTATION STATEMENT

### 5.1 Publication of Policy

- 5.1.1 A copy of this Policy will be provided to all Councillors, staff and volunteers and placed on Council's website.
- 5.1.2 This Policy is to be included in the Councillor Induction Program.
- 5.1.3 This Policy is to be included in the Staff and Volunteer Induction Program.

### 5.2 Roles and Responsibilities

- 5.2.1 All Councillors, staff, volunteers and committee members have an obligation to help promote human rights of others.
- 5.2.2 Council will consider human rights when developing policies and making decisions that affect the community, staff and volunteers, as follows:
- a. When developing and reviewing Council policies, local laws, strategies and plans.
  - b. By developing and adopting specific policies and processes that encourage appropriate behaviours, responsibilities and management of people within the work environment including but not limited to:
    - Councillor Code of Conduct (C14);
    - Staff Code of Conduct;
    - Anti-discrimination, Bullying and Harassment (CE25).

### 5.3 Human Rights Charter

This Policy is a key mechanism for providing assurance to the Council that Councillors are meeting their obligations and responsibilities when attending Council events or non-Council events as required by the *Local Government Act 2020* and the *Charter of Human Rights and Responsibilities Act 2006* and associated obligations.



#### 5.4 Non-compliance with this Policy

The Victorian Charter outlines the human rights protected by law in which Council must consider these when making decisions, creating laws, setting priorities and providing services within the Shire.

#### 5.5 Monitoring, Evaluation and Review

Council will undertake a four-yearly periodic review of this policy to ensure changes required to strengthen or update the policy to meet changing circumstances are made in a timely manner, or earlier if changes to legislation or practices require an earlier intervention.

### 6. LEGISLATIVE PROVISIONS

This policy has been developed to support the Council to comply with its good governance and conduct obligations in line with various legislation, principally the *Local Government Act 2020*.

<b>SUPPORTING INFORMATION</b>	
<b>Legislative Provisions</b>	<i>Charter of Human Rights and Responsibilities Act 2006 (the Charter)</i> <i>Local Government Act 2020</i> <i>Disability Act 2006</i> <i>Equal Opportunity Act 2010</i> <i>Freedom of Information Act 1982</i> <i>Fair Work Act 2009</i> <i>Information Privacy Act 2000</i> <i>Racial and Religious Tolerance Act 2001</i> <i>Sex Work Act 1994</i>
<b>Council Supporting Documents</b>	<i>Anti-discrimination, Bullying and Harassment Policy (CE25)</i> <i>Councillor Code of Conduct (C14)</i> <i>South Gippsland Shire Service Charter</i> <i>Staff Code of Conduct</i> <i>Community Engagement Policy (C06)</i> <i>Community Engagement Strategy</i> <i>Community Strengthening Strategy</i> <i>Disability Action Plan</i> <i>South Gippsland Health and Wellbeing Plan</i> <i>South Gippsland Youth Strategy</i>
<b>Related Documents</b>	
<b>File Number</b>	<i>D1834921</i>

### 7. DEFINITIONS

<b>Council</b>	South Gippsland Shire Council
<b>Councillor</b>	Is an elected member of the Council as defined by the <i>Local Government Act 2020</i> (the Act).
<b>Chief Executive Officer / CEO</b>	Is the Chief Executive Officer appointed by Council as defined by the <i>Local Government Act 2020</i> (the Act)



<b>Mayor</b>	Is the Mayor elected by Council and/or Councillor(s) as defined by the <i>Local Government Act 2020</i> (the Act).
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<i>REVISION HISTORY</i>			
<i>Version</i>	<i>Approved</i>	<i>Approval Date Range</i>	<i>Sections Modified</i>
1.0	<i>Council Meeting</i>	<i>22 May 2013</i>	<i>New Policy</i>
1.1	<i>Council Meeting</i>	<i>28 June 2017</i>	<i>Revised Policy</i>
1.2	<i>Council Meeting</i>	<i>19 May 2021</i>	<i>Revised Policy</i>

## 8. ATTACHMENT

Nil

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