



# Bullying, Discrimination, Harassment and Victimization Policy 1.0<sup>1</sup>

Version	1.0	Approved by	Derryck Klarkowski
		Approved date	20 February 2019
Responsible person	Executive Officer	Review date	30 January 2020

## 1. Introduction

We Care Connect (also referred to as ‘the organisation’ in this Policy) supports equal employment in the workplace and eliminating unlawful Discrimination. This policy is intended to provide managers, employees and volunteers with information to help We Care Connect achieve its policy objectives by outlining expectations of behaviours and procedures for dealing with complaints.

For the purpose of this Policy the word “work” will be used in reference to paid employment as well as unpaid volunteering and the word “workplace” will be used in reference to a place where paid employees and unpaid volunteers complete their roles/duties/tasks/activities.

## 2. Scope

This Policy applies to all employees, volunteers, contractors and agents of We Care Connect.

No person should be subject to any form of “negative behaviour” such as Bullying, Discrimination, harassment, and/or Victimization in connection to their employment or volunteering. This includes periods at work/while volunteering and at related functions, such as (but not limited to), conferences, office parties or while on business trips.

We Care Connect respects and values the diversity that people bring to their work. Consequently, We Care Connect has a Zero Tolerance stance on “negative behaviour” and discriminatory practices and will proactively seek to prevent “negative behaviours” from occurring. In the event of “negative behaviours” occurring We Care Connect will respond promptly by following the procedures that have been developed to manage such an occurrence. These procedures are contained within this Policy.

## 3. Purpose

We Care Connect will maintain and communicate a written Workplace Free of Bullying,

---

<sup>1</sup> This document is directly based with permission on St Kilda Mums ‘Bullying, Discrimination, Harassment and Victimization Policy 1.0’

Discrimination, Harassment & Victimisation Policy and a complaints resolution procedure for the purpose of:

- a. Promoting a workplace free of “negative behaviour” such as Bullying, Discrimination, Harassment and/or Victimisation.
- b. Preventing any form of workplace Bullying, Discrimination, Harassment and/or Victimisation within the Organisation.
- c. Ensuring that procedures are adopted so that complaints may be brought to the attention of the Executive Officer (EO) and/or the Board and that the appropriate course of action is taken once a complaint has been lodged.
- d. Providing We Care Connect with guidelines, by which complaints are to be received, investigated and resolved in a prompt and confidential manner, ensuring that action is taken to prevent any further harassment.
- e. Ensuring that no person is victimised through either making a complaint, being the recipient of a complaint or through being a witness to a complaint.
- f. Ensuring that We Care Connect and all its employees and/or volunteers comply with State, Territory and Federal Legislation relating to workplace Bullying, Discrimination, Harassment and Victimisation.

#### 4. Types of Bullying

- a. Direct Bullying (sometimes referred to as face-to-face Bullying) involves physically violent, aggressive or threatening actions such as, but not limited to, punching or kicking or direct verbal actions such as name-calling and insulting.
- b. Indirect Bullying (sometimes referred to as covert Bullying) is less direct, but just as painful. It means Bullying which isn't easily seen by others and is conducted out of sight, such as excluding people from groups or spreading lies or rumours. Because it is less obvious, it is often unacknowledged by adults.
- c. Cyber-Bullying (sometimes referred to as internet Bullying, or trolling) occurs with information or communication technologies such as, but not limited to, instant messaging or chat, text messages, email and social networking sites or forums. It has many similarities with offline Bullying, but it can also be anonymous, it can reach a wide audience, and sent or uploaded material can be difficult to remove.

#### 5. How Bullying can affect people

Bullying affects everyone in different ways nevertheless there are common feelings that come up when a person is being bullied.

- a. How Bullying can affect individuals:
  - Feeling guilty like it is your fault
  - Feeling hopeless and stuck like you can't get out of the situation
  - Feeling alone, like there is no one to help you
  - Feeling like you don't fit in with the popular group

- Feeling depressed and rejected by your friends and other groups of people
- Feeling unsafe and afraid
- Feeling confused and stressed out wondering what to do and why this is happening to you
- Feeling ashamed that this is happening to you.
- Threats to personal standing: e.g., name calling, yelling, screaming, intimidation, abusive, insulting or offensive language or comments, spreading misinformation of malicious rumours, belittling opinions, accusations regarding lack of effort and threats to one's job, deliberately excluding someone from workplace activities, unjustified criticism or complaints, withholding information that is vital for effective work performance.
- Overwork e.g. undue pressure, unreasonable timelines or constantly changing deadlines and unnecessary disruptions.
- Destabilisation: e.g. diminishing workloads, repeated reminders of blunders, removal of responsibility, setting one up to fail, setting tasks that are unreasonably below or beyond a person's skill level.

b. How Bullying can affect other people:

- Bullying can have a negative impact on everyone – it is not just a problem for victims and bullies. If you see Bullying occurring or know of others that have been bullied you may feel angry, fearful, guilty, and sad.
- Bullying can have a significant negative effect on workplace cheerfulness and morale.
- You may feel as bad as those who are being bullied.
- You may also feel worried that the Bullying could happen to you.

## 6. What is not workplace Bullying?

a. Reasonable management action taken in a reasonable way:

It is reasonable for managers and Team Leaders to allocate work and to give fair and reasonable feedback on an employee's performance. These actions are not workplace Bullying if they are carried out lawfully and in a reasonable manner, considering the particular circumstances.

b. Workplace conflict:

Differences of opinion and disagreements are generally not workplace Bullying. People can have differences and disagreements in the workplace without engaging in repeated, unreasonable behaviour that creates a risk to health and safety. However, in some cases conflict may escalate to the point where it meets the definition of workplace Bullying if not managed.

1.

## 7. Discrimination

Regulations made under the Australian Human Rights Commission 1986 list 19 grounds for

Discrimination (also known as attributes). Any harassment, or Discrimination, on any of these grounds will not be tolerated and instances of this type of behaviour should be reported immediately to the EO and/or the Board.

The grounds are:

- Sex, Gender identity, Sexual orientation
  - Marital Status, Pregnancy, Breastfeeding
  - Carer's status, Physical features, Age
  - Medical record, Political belief or activity, Trade Union activity
  - Sexual preference, Lawful religious belief, Social Origin
  - Race (including colour, nationality and ethnic or national origin), State of being a parent, childless or a de facto spouse, Irrelevant Criminal record.
  - Impairment that a person has:
    - Now
    - Has had in the past, (e.g. mental illness)
    - May have in the future (e.g. family history of a disability that may develop in the future, or
    - Is believed to have (e.g. if a person is thought to have Hepatitis C or HIV),
    - Personal association with someone (such as a friend or relative) who has (or is assumed to have) one of the above characteristics.
- a. Direct Discrimination occurs if a person treats, or proposes to treat, a person with an attribute unfavourably because of that attribute. It is irrelevant whether or not the attribute is the only or dominant reason for the treatment, provided that it is a substantial reason.
- b. Indirect Discrimination occurs if a person imposes, or proposes to impose, a requirement, condition or practice that has, or is likely to have, the effect of disadvantaging persons with an attribute; and that is not reasonable. In both cases, it is irrelevant whether or not that person is aware of the Discrimination or considers the treatment to be unfavourable.

## 8. Harassment

Harassment is a form of Discrimination and is unlawful. It is behaviour that is unwelcome and uninvited. Harassment can make a person feel offended, humiliated, or intimidated. It does not matter that there is no intention to harass. The way a person perceives or takes a comment is the important factor. Harassment includes many things that may not be perceived as harassment, but which the law says will amount to harassment.

It is important to recognise individual differences between people and that particular behaviour will elicit different responses or reactions between individuals. This is of particular importance when working in an open plan office or in a workplace where conversations and actions are easily overheard and witnessed by others.

Harassment can take many forms, including:

- Verbal abuse or threats;
- Unwelcome or offensive remarks, jokes or innuendo;

- Practical jokes which cause awkwardness, embarrassment or distress;
- Unwelcome invitations, requests, intimidation or suggestive behaviour;
- Unnecessary and unwelcome physical contact such as touching, patting or pinching

a. Examples of Harassment include but are not limited to:

- Repeated unwanted comments about a person's religious or political beliefs
- Comments about a person's sex life or physical appearance
- Suggestive behaviour such as leering and ogling
- Unnecessary physical intimacy such as brushing up against a person or touching or fondling
- Sexual jokes, offensive telephone calls, reading matter or objects
- Sexual propositions or continued requests for dates
- Indecent assault or rape (which are also criminal offences)
- Works or statements of a sexual nature, which are transmitted by phone, fax, e-mail, videoconference or any other form of electronic transmission
- Jokes, suggestive comments or offensive gestures related to a person's disability, religious conviction, ethnic or sexual characteristics
- Conduct which is creating an intimidating, hostile or offensive work environment
- Campaigns of hate and/or silence
- Inappropriate and uninvited physical contact
- Name-calling because someone comes from a different culture
- Treating a person differently because they have a disability.

b. Sexual Harassment is any deliberate verbal or physical conduct of a sexual nature that is unwelcome and uninvited. This also includes inappropriate conduct that is shown by way of technologies such as (but not limited to) mobile phone cameras, social networking websites, emails, SMS and MMS communications.

It has nothing to do with mutual attraction or genuine affection between people. Such friendships, whether sexual or not, are a private concern. Sexual Harassment is deemed to have occurred where the conduct of a person makes another person feel:

- Offended and humiliated,
- Intimidated and frightened, or
- Uncomfortable at work.

## 9. Victimization

Victimization of a person in the workplace is unlawful. Victimization is defined as when:

- Person who makes a complaint of Harassment or Bullying is threatened or subject to detriment by another person because of making the complaint and/or
- A person who is a witness or is assisting with the investigation of a complaint of Harassment or Bullying is threatened or subject to detriment by another person.

## **10. Zero Tolerance of “Negative Behaviour”**

Bullying, Discrimination, Harassment and Victimisation are four behaviours that We Care Connect identifies as “negative” and have Zero Tolerance for. This list does not limit or preclude other actions, conduct or behaviour from being identified as a “negative behaviour” and therefore being inappropriate and in breach of We Care Connect Policy.

There is Zero Tolerance for behaviour that bullies, discriminates, harasses and/or victimises against an employee, client or associate of We Care Connect while they are on the organisation’s premises or when working away and on behalf of the organisation. This behaviour will not be tolerated.

All employees and volunteers have a right to work in an environment that is free of Bullying, Discrimination, Harassment and/or Victimisation. Bullying, Discrimination, Harassment and/or Victimisation is illegal under Australian Legislation.

The We Care Connect EO, Board, Managers and Team Leaders of employees and volunteers are required to ensure that everyone is treated fairly and equitably and are not subjected to any “negative behaviour”. Managers and Team Leaders are required to, as reasonably practicable, ensure that complainants and witnesses are not victimised in any way.

Any reports of Bullying, Discrimination, Harassment and/or Victimisation will be treated seriously and sympathetically and are to be investigated thoroughly and confidentially. Disciplinary action is to be taken against any employee and/or volunteer (including those in Team Leader or managerial positions) found to be guilty of demonstrating defined “negative behaviour” towards an employee or volunteer of, or supplier, client, stakeholder, visitor, consultant, contractor or sub-contractor to, the Organisation.

All complaints regarding “negative behaviour” will be dealt with as set out in the Code of Conduct Policy, and the Disciplinary Action and Grievance Procedure.

## **11. “Upwards Bullying, Discrimination, Harassment and/or Victimisation”**

It is important to note that people do not have to be in a subordinate position for Bullying, Discrimination, Harassment and/or Victimisation to occur. While it can be more common for the individual doing the Bullying, Discrimination, Harassment and/or Victimisation to be in a position of authority (Team Leader or Management role), the target of the negative behaviour can go up the chain of command, as well as down.

## **12. We Care Connect Responsibilities**

In accordance with legislation, We Care Connect can be held responsible for the actions of employees and/or volunteers unless We Care Connect can prove that it has taken all reasonable steps to ensure that such conduct does not occur.

We Care Connect must respond to all complaints of negative behaviour in a timely manner and take appropriate action to resolve the relevant issues. We Care Connect has a legal responsibility to ensure Victimisation arising from complaints of “negative behaviour” such as Bullying, Harassment and/or Discrimination does not occur.

We Care Connect must take all reasonable steps to ensure “negative behaviour” such as Bullying, Discrimination, Harassment and/or Victimisation does not occur in the workplace. This includes making everyone aware of the relevant Policy, ensuring that they understand it, and ensuring that on-going education and training is provided for everyone.

We Care Connect is responsible for the behaviour of independent contractors, sub-contractors or consultants, as well as employees and/or volunteers, when those individuals are working in the Organisation’s facilities. All contractors, sub-contractors or consultants who work in the Organisation’s environment from time to time need to be made aware of the Organisation’s Policy on Bullying, Discrimination, Harassment and/or Victimisation.

The following has been implemented at We Care Connect to ensure reasonable and proportionate measures have been taken to eliminate Bullying, Discrimination, Harassment and Victimisation from the organisation:

- Internal dispute resolution process (Refer to Appendix 1).
- The Organisation’s Zero Tolerance for “negative behaviour” such as, but not limited to, Bullying, Discrimination, Harassment and/or Victimisation is clearly communicated in all employment contracts and when inducting new employees and volunteers.
- Disciplinary consequences associated with “negative behaviour” such as Bullying, harassment, Victimisation and/or Discrimination is clearly defined in the We Care Connect code of conduct that all employees and volunteers sign on commencement.

### **13. Manager’s Responsibilities**

Managers and Team Leaders of employees and/or volunteers are to:

- Ensure that all employees and volunteers are aware of the appropriate and acceptable standards of behaviour at work;
- Take early corrective action to deal with behaviour which may be offensive or intimidating, such as (but not being limited to), the removal of offensive posters or other material, and moving to stop behaviour such as teasing or continual sexual banter in the work area; and
- Handle complaints promptly, seriously and confidentially with due sensitivity to the needs of the complainant.

### **14. Rights and Responsibilities of Everyone**

a. Everyone has the right:

- To tell a person who may be demonstrating “negative behaviour” such as Bullying, Discrimination, Harassment and/or Victimisation to stop that behaviour.
- Not to be bullied, discriminated, harassed and/or victimised against by others in the workplace
- To have allegations of “negative behaviour” dealt with in a professional and respectful manner without risk of prejudice or repercussion.

b. Everyone has the responsibility to:

- Comply with this Policy
- Prevent “negative behaviour” such as Bullying, Discrimination, Harassment and/or Victimization at work.
- Ensure their behaviour meets acceptable standards.
- Assist those who are experiencing alleged “negative behaviour” such as Bullying, Discrimination, Harassment and/or Victimization. This includes providing information about how to make a complaint, it may be appropriate to approach your Manager/Team Leader on the employee or volunteer’s behalf about the alleged incident.
- Speak out against “negative behaviour” such as Bullying, Discrimination, Harassment and/or Victimization when they witness an incident. This type of assertive response to negative behaviour by witnesses ensures that recipients of this type of behaviour are not isolated and bullies, discriminators, harassers and victimisers know that their behaviour is unacceptable.
- Maintain confidentiality if required to provide information during the investigation of a complaint. Breaching confidentiality by spreading rumours or gossiping may expose a person to possible defamation action.
- To treat allegations of negative behaviours in a confidential, professional and respectful manner to protect all parties from risk of prejudice or repercussion.

## 15. Complaints

If employees and/or volunteers are experiencing negative behaviour, there are four initial actions they may take:

- Tell the alleged offender that they object to the behaviour and do not want it to be repeated.
- Advise their Manager/Team Leader of the alleged behaviour and ask their Manager/Team Leader to intervene with the alleged offender on their behalf.
- Write to the alleged offender and your manager outlining the cause for complaint and requesting that the behaviours stop.
- Make a complaint to the [Fair Work Commission](#) (Aus) 1300 446 458

If the behaviour continues, or if an individual does not feel able to directly approach the person, the individual should:

- Escalate the matter to EO and/or the Board directly.
- Contact the office of the Commissioner for Equal Opportunity for advice.
- Make a complaint to the Fair Work Commission (AUS). For more information, please go to [www.fwc.gov.au/resolving-issues-disputes-and-dismissals](http://www.fwc.gov.au/resolving-issues-disputes-and-dismissals).
- Contact the Australian Human Rights Commission. For further information go to [www.humanrights.gov.au/complaint-information](http://www.humanrights.gov.au/complaint-information)

## 16. Legislation

The following legislation relates to this Policy:

Australian Federal Legislation



- Australian Human Rights Commission Act 1986
- Age Discrimination Act 2004
- Disability Discrimination Act 1992
- Racial Discrimination Act 1975
- Sex Discrimination Act 1984
- Fair Work Act 2009
- Occupational Health and Safety Act 1985
- Work Health & Safety Act 2011 (excludes Victoria & Western Australia)
- Work Health & Safety Regulation 2011(excludes Victoria & Western Australia)
- Native Title Act 1993

#### NSW State Legislation

- NSW Anti-Discrimination Act 1977

## 17. Acknowledgements

This document is directly based with permission on the St Kilda Mums 'Bullying, Discrimination, Harassment and Victimization Policy 1.0', drafted by Nyree Fiddes, approval date 19 September 2017

## 18. Appendix 1: How Complaints Are Resolved Internally

### By Agreement

- Complaints can be settlement by agreement between the people involved.

Where a Complaint is Not Substantiated - If there is not enough evidence to decide if the allegations occurred or were likely to have occurred, no disciplinary action will be taken. However, We Care Connect may:

- Monitor the situation
- Consider employee and/or volunteer's education or training.

Through Disciplinary Action - If a breach of We Care Connect Policies and Procedures or the law is found, We Care Connect may discipline those responsible. If a complaint is found to have been false or malicious We Care Connect may discipline the person making the complaint. Untrue allegations could lead to legal action for defamation.

The level of discipline will depend on:

- The severity and frequency of the Discrimination or harassment
- The weight of evidence
- Whether the behaviour was intentional or malicious • Existence of any prior incidents or official warnings
- Whether there are any mitigating circumstances.

Discipline could involve:

- Counselling
- Apologising
- Written warning
- Loss of promotion or wage increases for a period • Demotion, transfer, suspension, probation
- Dismissal.

Any employee and or volunteer who is disciplined will have a record of the complaint and the outcome placed on their employee/volunteer file.

Documentation - Records, notes or reports will:

- Be kept confidential
- Be filed in a confidential system with limited access.

Other Help - At any time, any employee involved in a complaint can seek union, HR, IR or legal advice and bring an appropriate support person to a complaint investigation interview or meeting. At any time, an employee and/or volunteer has the right to contact a relevant external third party for support, advice or help.

Page