

Bullying, Harassment and Discrimination Policy & Procedure

Applies to: Workplace conduct and service provision, and must be enacted by all staff, volunteers, service users and external stakeholders.

Specific responsibility: Overseen by the Manager, People, Performance & Culture

Version: 2

Date approved: 20/5/2020

Next review date: 20/5/2022

Policy context: This policy relates to

Standards or other external requirements

ISO 9001:2015: 6.1; 7.1.1; 7.1.2; 7.1.4; 7.1.5; 10.2

NDIS Practise Standards: 6. Person-Centred Supports (Rights and Responsibilities); 7. Individual Values and Beliefs (Rights and Responsibilities); 8. Privacy and Dignity (Rights and Responsibilities); 10. Violence, Abuse, Neglect, Exploitation and Discrimination (Rights and Responsibilities); 12. Risk Management (Governance and Operational Management); 15. Feedback and Complaints Management (Governance and Operational Management); 16. Incident Management (Governance and Operational Management); 24. Safe Environment (Support Provision Environment); 9. Independence and Informed Choice (Rights and Responsibilities)

Legislation or other requirements

- Sex Discrimination Act 1984 (Cth)
- Racial Discrimination Act 1975 (Cth)
- Disability Discrimination Act 1992 (Cth)
- Age Discrimination Act 2004 (Cth)
- Australian Human Rights Commission Act 1986 (Cth).

Contractual obligations

Code of Conduct

OBJECTIVE

Inclusion Melbourne seeks to provide a service and workplace free from any kind of bullying, harassment or discrimination. Inclusion Melbourne employs both proactive and responsive strategies to maintain a safe and welcoming work environment and service.

POLICY STATEMENT:

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Inclusion Melbourne is committed to providing a workplace and service free from bullying, harassment and discrimination. The organisation recognises that staff, volunteers, service users or external stakeholders who experience bullying, harassment or discrimination can be ineffective in their role and for our service users, may be unable to reach fulfilling lives in the community. When dealing with any reported bullying, harassment and discrimination, Inclusion Melbourne will act efficiently and in accordance with The National Privacy Principles and the Fair Work Act (2009). It is expected that all employees and volunteers uphold their responsibilities to safeguard against bullying, harassment and discrimination. These responsibilities include, but are not limited to:

- Upholding Inclusion Melbourne's values and Code of Conduct.
- Where reasonable, immediately reporting any offensive action directed at themselves or others.
- Providing the people we support with the tools and information to conduct themselves in a manner that is respectful and non-discriminatory.

Any complaint made about bullying, harassment or discrimination is prioritised by management and is resolved within a timeframe that is reflective of the nature and mitigating circumstances of the complaint.

PROCEDURES

1. Defining Bullying, Harassment and Discrimination Bullying

Workplace bullying is repeated, unreasonable behaviour directed toward an employee, or group of employees, that creates a risk to health and/or safety. A single incident of unreasonable behaviour is not considered to be workplace bullying, however it may have the potential to escalate and should not be ignored.

Unreasonable behaviour includes actions of individuals or groups of people that one would reasonably expect to have the effect of victimising, humiliating, undermining, threatening or causing undue stress or anxiety. It also includes using a system of work as a means of creating the above effects.

Direct bullying includes: verbal abuse; undue direct negative criticism; spreading rumours or innuendo about a person; and maliciously interfering with a person's ability to perform work tasks.

Indirect bullying includes: unjustified criticism and complaints; deliberately excluding someone from workplace activities; deliberately denying access to information or other resources that are required for effective work; deliberately changing work arrangements to inconvenience a particular person or persons; setting tasks or timelines that are unreasonably above or below an employee's capacity; consistently singling out an employee for appraisal while treating other employees with significantly less scrutiny, and maliciously making a bullying complaint about another staff member.

Recognition of bullying is the first step in addressing this behaviour. Therefore:

- Staff need to be able to recognise the types of behaviour that constitute bullying.

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- Staff should understand that there are legitimate behaviours (such as giving instructions or feedback) that can be misinterpreted as bullying. The manner in which the instructions and/or feedback is delivered is important, and should be well thought-out to best avoid any misinterpretation.
- Bullying can occur in many situations. There can be 'downwards' bullying from managers or supervisors, 'side-wards' bullying from workmates and colleagues and 'upwards' bullying towards management.
- Staff are to be aware that this behaviour is unacceptable and may result in disciplinary procedures. Serious allegations which have been substantiated can lead to termination of employment.

Bullying does not cover situations where an employee has a complaint/grievance about legitimate and reasonable processes, such as:

- Performance management processes
- Allocation of work in compliance with policies, procedures, position descriptions and work systems.
- Disciplinary action
- Differences of opinion/workplace conflict

Discrimination occurs when a person considers they have been treated less favourably owing to an attribute (listed below) when compared with a person not of that attribute.

Protected attributes can include:

- Age
- Disability/Impairment
- Industrial activity/inactivity
- Lawful sexual activity
- Gender identity
- Sexual orientation
- Marital status, including de facto relationships
- Physical features
- Political belief or activity
- Pregnancy/breastfeeding
- Race
- Religious belief or activity
- Status as a parent or carer
- Personal association with someone of the above attributes
- Irrelevant criminal conviction
- Financial status

There are two types of discrimination:

Direct discrimination occurs when an individual is victimised or their role within the organisation is hindered due to their attribute(s). For example, not employing an individual because of their ethnic background.

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Indirect discrimination occurs where an employer's policies or work practices are the same for everyone but place a particular employee or group of employees at a disadvantage. For example, dismissing an employee due to their inability to attend training courses on weekends because of home duties.

Harassment is any form of behaviour that is: not wanted; not asked for and not returned; and makes the receiver feel humiliated, offended or intimidated. Harassment can involve actions, comments, behaviour or physical contact. It undermines the standard of conduct within a work area, which may erode the wellbeing of the individual or group being targeted. Unlawful harassment may relate to any of the attributes protected in various equal opportunity legislation mentioned above.

It is important to note that it is irrelevant as to whether or not the inappropriate behaviour was intended. It is also important to understand that it is the person being subjected to the behaviour who determines whether the behaviour is welcome or unwelcome.

Victimisation is seen to occur when someone who has raised an equal opportunity complaint suffers a negative consequence as a result of raising that concern.

2. Employee and Volunteer Responsibilities

All Inclusion Melbourne employees and volunteers are required to consider the following behaviours and attitudes in their day-to-day activities.

- Set a positive example by role modelling appropriate behaviour and communication.
- Clearly communicate to staff and volunteers Inclusion Melbourne's definitions and policies around bullying, harassment and discrimination.
- Ensure any complaints of bullying or harassment are treated seriously, confidentially and without prejudice.
- Monitor the work environment and ensure that workplace behaviour meets Inclusion Melbourne's standards and values.
- Ensure no one is victimised for making a complaint or assisting with the investigation of a complaint.
- Encourage and guide staff to follow Inclusion Melbourne's internal resolution procedures when dealing with a complaint.
- Supervisors dealing with complaints of bullying, harassment or discrimination should be dealt with seriously professionally and efficiently.

3. Employee and Volunteer Education (Proactive Strategies)

At the commencement of employment/engagement, all employees and volunteers will be informed, via their induction, of the processes in place for the reporting of bullying, harassment and discrimination within the workplace. The Inclusion Melbourne Induction/ Refresher Training addresses the organisations values including respect and dignity.

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4. Responding to Allegations Of Bullying, Harassment Or Discrimination

Employees or volunteers experiencing bullying harassment or discrimination must undertake the following process:

- Document the behaviour in a detailed and concise way. This should happen as soon as possible after the behaviour has occurred.
- If comfortable to do so, address the behaviour with the person involved. Advise the person involved that their behaviour violates Inclusion Melbourne's policies and values.
- Report the matter (with your supporting documents) to your line supervisor. In instances where this is not possible, or the line supervisor has not responded effectively or efficiently, report the matter to the Manager, People, Performance & Culture, or the CEO. Allegations will be treated quickly, seriously and sympathetically. They will be investigated thoroughly, impartially and confidentially.
- If both your line supervisor or the Human Resources Manager have not responded in a satisfactory manner, seek support and advice from the Human Rights and Equal Opportunity Commission, a Union Representative, WorkSafe, or the Fair Work Ombudsman (contact details attached)

Dealing with the complaint in-line with Inclusion Melbourne's Warning Procedures and Staff Discipline Policy and Procedure.

Once the line supervisor, Manager People, Performance & Culture or CEO has met with the person making the complaint and documented the details of the complaint, a documented discussion will occur with the person against whom the complaint is being made. The presence of the person making the complaint at this meeting will be at the discretion of the persons involved.

Both parties may request the presence of a witness at this meeting. If the complaint is substantiated, the meeting will be documented by the line manager or Manager People, Performance & Culture and, if appropriate, discussed with the CEO.

Managers must respond to an allegation of bullying, harassment and/or discrimination within one week of the complaint being made.

Possible outcomes

- While under review, the manager responsible may (with consideration to the limits of the organisation) provide affected person(s) with alternative working arrangements to avoid further conflict while the matter is being investigated. The person(s) involved in the matter may also be offered support through the Employee Assistance Program to help manage strategies for dealing with the situation.
- The person managing the matter is responsible for keeping all affected parties informed of the matters progress and outcome.
- The person who lodges the complaint will not be disadvantaged in their employment conditions or opportunities as a result of their complaint.
- In some situations, the following options may be possible:
 - Discuss with the line manager or Manager People, Performance & Culture the potential to change duties temporarily or permanently. Please note that this may be

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difficult due to the nature of the organisation and the service we provide and not always a possibility.

- Discuss with the line manager or Manager People, Performance & Culture that greater attention be given to observation in the workplace. This will also depend on the appropriateness of such an action and the resources available and will not always be a suitable option.
- A person against whom a complaint is being made has the right to discretion and the opportunity to contribute recourse in a safe and fair environment and for this to take place in the context of a confidential discussion with one of: the line manager, the CEO or the Manager People, Performance & Culture.
- At the conclusion of the investigation all parties will be advised of the outcome in writing by the CEO or manager conducting the investigation.

Variations to the procedure

Should the CEO be either the person making the complaint or the person about whom the complaint is being made, enquiries should be directed to the Chair of the Board, who may appoint a delegate or an external investigator. Results will then be taken to the Chair. If allegations are substantiated, the Chair will then communicate results with the rest of the Board.

5. People we support and this policy

If the people we support are experiencing any bullying, discrimination or harassment while being supported by Inclusion Melbourne they are able to talk to their Direct Support Staff, Support Coordinators, Manager People, Performance & Culture an advocate, friend or external bodies including NDIS Quality and Safeguards Commission and independent disability advocacy services.

If there have been allegations made against a person we support of bullying, harassment or discrimination, Inclusion Melbourne employees will document via IM incident reporting system and undertake an internal review, that includes an interview and reactive strategies. Further a determination will be made whether the incident is reportable to the NDIS Quality and Safeguards Commission.

Note: The implementation of the Disability Worker Exclusion System will impact the way in which the organisation handles allegations of bullying, harassment and discrimination towards a person we support. Changes will be made to this policy and procedure following the full implementation of this policy and procedure.

6. Confidentiality and filing of documentation

All information regarding the complaint is confidential. This means the complaint may only be discussed with relevant persons.

All discussions regarding a formal complaint will be documented and kept in a separate file which is kept in a secure and confidential place by the Complaints Officer. At present, the Complaints Officer is the Chief Executive Officer. No documentation arising from an investigation shall appear on the personal file of the person making the complaint.

Documentation arising from an investigation where the complaint has not been substantiated will be stored securely by the Complaints Officer, however the complaint will not be noted on the personal file of the person against whom the complaint was made.

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A copy of all documentation arising from an investigation where the complaint has been substantiated will be stored securely and a note will be placed on the personal file of the person against whom the complaint was made. This person may make their own comments for inclusion on their personal file.

7. Breaching this policy and procedure

When a substantiated breach in policy occurs, a meeting will take place between the line manager, the Manager People, Performance & Culture or the CEO and the person against whom the complaint was made to inform the person that the claim has been substantiated and to discuss the disciplinary action that will be taken. The person is permitted to bring a person of support to this meeting.

Appropriate disciplinary action will be taken against the person who is found to have breached this policy. These measures will depend on the nature and circumstances of each breach and could include:

- A verbal or written apology (though this will not circumvent the disciplinary process)
- One or more parties agreeing to participate in counselling or training;
- A verbal or written reprimand;
- Transfer, demotion or dismissal of the person who engaged in the bullying behaviour.

Refer to the Staff Discipline policy and procedures for steps in managing the disciplinary process following a substantiated claim. The Staff Discipline policy will also be consulted when a staff member breaches the procedural instructions in this Bullying, Harassment and Discrimination policy and procedures.

DOCUMENTATION

Documents related to this policy	
Related policies	Code of Conduct Conditions of Employment Employee Assistance Program OHS Privacy and Confidentiality Sexual Harassment and Assault Staff Discipline
Forms, record keeping or other organisational documents	Code of Conduct for Staff Code of Conduct for Volunteers Complaints Investigation Form

Reviewing and approving this policy		
Frequency	Person responsible	Approval
Every 2 years	Manager, People Performance & Culture	Manager, People Performance & Culture

Policy review and version tracking

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Review	Date Approved	Approved by	Next Review Due
1	5/08/2016	Manager, People Performance & Culture	5/08/2017
2	20/05/2020	Manager, People Performance & Culture	20/05/2022
3			