

# Equal Opportunity - Discrimination, Sexual Harassment, Bullying, Victimisation & Vilification

## Purpose

The purpose of this document is to ensure the Centre provides an environment where staff and others in the workplace are treated fairly and with respect, and are free from unlawful discrimination, sexual harassment, bullying and victimisation.

The Centre commits to prevent unlawful behaviour in the workplace. This policy sets out what discrimination, harassment, sexual harassment, victimisation, vilification and bullying are and what behaviour is unacceptable in a workplace.

## Scope

This document outlines the Centre's responsibility to prevent unlawful behaviour including discrimination, sexual harassment, and victimisation and bullying.

This policy applies to all staff, Trust members, volunteers and contractors, those on work experience, hirers and contractors. It is not limited to the workplace or work hours. This policy extends to all functions and places that are work related. For example, work lunches, conferences, Christmas parties and functions. The policy also relates to all forms of communications including electronic and via social media.

## Policy

Under Equal Employment Opportunity laws, discrimination, sexual harassment, bullying, victimisation and vilification are unlawful and strictly prohibited and will not be tolerated by the Centre in any circumstances.

Employees found guilty of any of these behaviours may be dismissed or subject to other disciplinary action.

The Centre is an Equal Opportunity Employer. Our aim is to ensure that every employee and job applicant is treated in a manner that is not contrary to discrimination law. The Centre also aims to create a work environment which promotes good working relationships and is free from bullying.

## What is discrimination?

Discrimination in employment occurs when a person is treated less favourably in their employment because of a certain protected attribute or characteristic.

Discrimination can be direct or indirect. Direct discrimination occurs if a person treats, or proposes to treat, someone with a protected attribute less favourably than they treat or would treat someone without that attribute, or with a different attribute, in the same or similar circumstances. Indirect Discrimination occurs when a rule, policy, practice or procedure appears neutral or equal for everyone but which has an unequal or disproportionate effect of disadvantaging a person or group of persons with a protected attribute.

Protected attributes or characteristics are set by law (Federal, State and Territory laws) and include those set out below.

Race (including colour, nationality, ethnicity and ethnic origin)
Religious belief or activity
Sex
Marital status
Pregnancy and breastfeeding
Gender identity, lawful sexual activity and sexual orientation
Carer and parental status
Disability (including physical, sensory and intellectual disability, work related injury, medical conditions and mental psychological and learning disabilities)
Age
Physical features
Industrial/trade union membership, non-membership or activity
Political belief or activity
Medical records; HIV/AIDS
Expunged homosexual conviction
Personal association with someone who has or is assumed to have, one or more of the attributes for which discrimination is prohibited.
Employment activity (employees treated unfairly because they make reasonable requests and/or voice concerns about their employment entitlements or works rights.)

Discrimination also includes the situation where an employee harasses another person because of a protected attribute.

Harassment is unwelcome conduct that offends humiliates or intimidates the other person.

## What is sexual harassment?

Sexual harassment is unwelcome conduct of a sexual nature. It involves behaviour that could reasonably be expected to make a person feel offended, humiliated or intimidated. Sexual harassment can be physical, verbal or written conduct. Conduct can amount to sexual harassment even if the person did not intend to offend, humiliate or intimidate the other person.

Sexual harassment does not have to be directed at a particular individual to be unlawful. Behaviour which creates a hostile working environment for other employees can also be unlawful.

Examples of sexual harassment include, but are not limited to:

staring or leering
unnecessary familiarity, such as deliberately brushing up against you or unwelcome touching
suggestive comments or jokes
insults or taunts of a sexual nature
intrusive questions or statements about your private life
displaying posters, magazines or screen savers of a sexual nature
sending sexually explicit emails or text messages
inappropriate advances on social networking sites
accessing sexually explicit internet sites
requests for sex or repeated unwanted requests to go out on dates
behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.
requests for sexual favours
sexually explicit conversations
suggestive comments about a person's body or appearance

***Source; Victorian Equal Opportunity & Human Rights Commission***

## What is workplace bullying

Workplace bullying occurs when an individual or group of individuals repeatedly behave unreasonably towards an employee or a group of employees at work, and this behaviour creates a risk to health and safety.

In assessing whether behaviour is unreasonable, you should consider that a reasonable person, having regard for the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.

Examples of behaviour that could be bullying include;

publicly humiliating someone
spreading malicious rumours or gossip
teasing, practical jokes or 'initiation ceremonies'
exclusion from work related events and practice
unreasonable work expectations, including too much or too little work, or work below or beyond someone's skill level
displaying offensive material
verbal abuse
pressure to behave in an inappropriate manner
deliberately changing work rosters to victimise or inconvenience particular employees

The list is not exhaustive. Other types of behaviour may also constitute bullying. The behaviour must be repeated and unreasonable and must create a risk to health a safety.

When bullying involves threats to harm someone or damage to property, it is also a criminal offence. Physical assaults will be referred to Victoria Police.

While single incidents of unreasonable behaviour are not defined as bullying in Victoria, they still pose a risk to health and safety and should be dealt with.

## Reasonable management action (What is not workplace bullying)

Reasonable management action conducted in a reasonable manner does not constitute bullying.

Reasonable management actions may include for example:

- Performance management processes
- Disciplinary action for misconduct
- Informing a worker about unsatisfactory work performance or inappropriate work behaviour
- Directing a worker to perform duties in keeping with their job
- Maintaining reasonable workplace goals and standards

## What is victimisation

Victimisation occurs where a person is retaliated against or subjected to a detriment because they have lodged a complaint, they intend to lodge a complaint or they are involved in a complaint of unlawful conduct. Employees must not retaliate against a person who raises a complaint or subject them to any detriment.

## What is vilification

There are two main laws that prohibit racial abuse in Australia; Victorian and Federal.

Vilification is behavior that incites or encourages hatred, serious contempt, revulsion or severe ridicule against another person or group of people because of their race and/or religion.

Under Victorian law, it is unlawful to vilify a person or group of people on the basis of their race or religion. The law deals with public behavior, not personal beliefs.

Under federal law, it is unlawful to publicly behave in a way that is racially offensive or abusive to a person or group of people based on their race, colour, nationality or ethnic origin.

## Rights and responsibilities

Every manager and employee has a responsibility to comply with this policy and to treat everyone who works at GPAC with dignity and respect. Managers and Coordinators particularly have a responsibility to ensure employees are not bullied or harassed.

## Role of Managers and Coordinators

Managers and coordinators have a responsibility to:

- Monitor the working environment to ensure that acceptable standards of conduct are observed
- Promote the organisation's policy in their work area
- Treat all complaint seriously and take immediate action to investigate and resolve the matter
- Encourage staff to discuss issues of concern and take every complaint seriously

## Role of staff

All workplace participants must observe this policy by:

*(Workplace participants are defined as Trust members, volunteers, contractors, consultants, and those on work experience)*

- ensuring they do not engage in any unlawful conduct towards other co-workers, customers/clients or others with whom they come into contact through work
- ensuring they do not aid, abet or encourage other persons to engage in unlawful conduct
- following GPAC's complaint handling policy if they experience any unlawful conduct
- reporting any unlawful conduct they see occurring to others in the workplace in accordance with GPAC's complaint handling policy
- maintaining confidentiality if they are involved in a complaint procedure

Staff should be aware that they can be held legally responsible for their unlawful conduct. Staff, who aid, abet or encourage other persons to engage in unlawful conduct, can also be legally liable.

## Breach of this policy

If a staff member breaches this policy, they may be subject to disciplinary action including termination of employment. Contractors (including temporary contractors) who are found to have breached this policy may have their contracts terminated or not renewed.

If a person makes an unfounded complaint or a false complaint in bad faith (e.g. making up a complaint to get someone else in trouble or making a complaint where there is no foundation for the complaint), that person may also face disciplinary action and may be exposed to claims of defamation.

## Complaints handling

If anyone feels that they have been subjected to any form of conduct contrary to this policy, you should not ignore the conduct and should report it as soon as possible.

If you witness unreasonable behaviour you should report it as a matter of urgency.

A complaint may involve you directly, you may have observed a situation or you may have heard something which has concerned you.

When behaviour is reported, it will be treated as a serious matter and will be investigated quickly and in accordance with the Centres **Internal Complaint Policy**. This policy outlines formal and informal options available to deal with a complaint and where necessary, a formal investigation will be undertaken and disciplinary action may result.

## Reporting a workplace issue

You can report an equal opportunity issue anytime. If anything at all relating to discrimination, sexual harassment, bullying, victimisation or vilification is concerning you please raise the issue promptly with a director, manager, coordinator or health and safety representative. If you are a member of the union you may also raise any issues with your delegate. This can be either on-site or off-site if you prefer. The working environment can only be improved if issues are raised and dealt with.

Other avenues for complaints are:

- Victorian Equal Opportunity and Human Rights Commission

[www.humanrightscommission.vic.gov.au](http://www.humanrightscommission.vic.gov.au)

- Worksafe Victoria – Advisory Service

[www.worksafe.vic.gov.au](http://www.worksafe.vic.gov.au)

## Relevant Legislation

Geelong Arts Centre has a responsibility to prevent unlawful discrimination, sexual harassment, victimisation and bullying in the workplace under both Commonwealth and state and territory legislation.

In Victoria, this legislation includes:

- *Equal Opportunity Act 2010 (Vic)*
- *Racial and Religious Tolerance Act 2001 (Vic)*
- *Occupational Health and Safety Act 2004 (Vic)*
- *Crimes Act 1958 (Vic)*

The Commonwealth legislation includes:

- *Fair Work Act 2009 (Cth)*
- *Racial Discrimination Act 1975 (Cth)*
- *Sex Discrimination Act 1992 (Cth)*
- *Disability Discrimination Act 1992 (Cth)*
- *Age Discrimination Act 2004 (Cth)*

## Related Policies

- *Internal Complaints*