



Workplace Discrimination and Harassment Policy

POLICY STATEMENT

Our service is strongly committed to eliminating all forms of workplace discrimination and harassment, to maintain an appropriate level of employee awareness of what constitutes unacceptable behaviour in the workplace. To ensure that employees are aware of their rights and responsibilities relating to workplace discrimination and harassment. To provide employees with details of the informal and formal processes for investigating and resolving complaints. Workplace discrimination and harassment have serious implications for both productivity and morale. The aim of achieving a harassment free workplace is not intended to impose restrictions on individual working styles or on workplace related relationships and social activities. Rather its aim is to recognise that people of different backgrounds and interests need to treat each other with respect and courtesy if the Centre is to be an effective organisation. Anyone alleging or reporting bullying or harassment will not be victimised or disadvantaged in any way.

CONSIDERATIONS

Education & Care Services National Regulations	National Quality Standard	Related Service Policies / Documentation	Other
R137-152, R168	Standards 4.2, 7.3	1. Service Philosophy (201) 2. Employee Handbook (202) 3. Parent handbook (203) 4. Providing a Child Safe Environment Policy (116)	1. Community Services Complaints, Appeals and Monitoring Act 1994 2. Ombudsman Act 1974 3. Early Childhood Code of Ethics 4. Work, Health and Safety Act (2011)

		5. Acceptance and Refusal of Authorisation (108) 6. Code of Conduct Policy	5. NSW Anti-discrimination Act 1977 6. Disability Discrimination Act 1975 7. Fair Work Act
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What is Workplace Discrimination?

Workplace Discrimination is denying any person equality of treatment in employment matters for any grounds other than those directly related to the requirements of the job.

Discrimination can occur directly or indirectly:

Direct Discrimination: occurs when a person or group of people are treated in an unfair or less favourable way because of an attribute such as age, gender, race, religion, sexual orientation, disability or marital status.

Indirect Discrimination: occurs when a person or organisation imposes requirement (a rule, policy, practice or procedure) that is the same for everyone but has an unequal or disproportionate effect on a particular group or groups. If the requirement is not reasonable in all circumstances, it is likely to be indirect discrimination.

All employees and prospective employees will be treated fairly and based on their individual merits.

What is Workplace Harassment?

Harassment

Harassment is any form of behaviour that is unwelcome, unsolicited, unreciprocated and usually (but not always) repeated. It is behaviour that is likely to offend, humiliate or intimidate. It can make it difficult for effective work to be done by the individual or groups targeted or affected by the behaviour.

For harassment to occur there does not have to be an intention to offend or harass. It is the impact of the behaviour on the person who is receiving it, together with the nature of the behaviour, which determines whether it is harassment.

Some examples of workplace harassment might include:

- Offensive physical contact, derogatory language or intimidating actions
- Insulting or threatening gestures or language (overt or implied) or continual and unwarranted shouting in the workplace
- Unjustified and unnecessary comments about a person's work or capacity for work
- Openly displayed pictures, posters, graffiti, or written materials which might be offensive to some
- Phone calls or messages on electronic mail or computer networks which are threatening, abusive or offensive to employees
- Persistent following or stalking within the workplace, or to or from work
- Electronic stalking and harassment on social media networks

Workplace harassment should not be confused with legitimate comment and advice on the work performance or work-related behaviour of an individual or group. However, feedback and counselling should always be carried out in a constructive way that is not humiliating or threatening, and that is consistent with the performance management appraisal process.

Sexual Harassment

Sexual harassment is any unwanted, unwelcome or uninvited behaviour of a sexual nature that is likely to offend, humiliate or intimidate.

Sexual harassment can take many forms and may include:

- Belittling jokes or comments based on gender stereotypes
- Behaviour which insists that gender stereotypes be maintained and exercised in the workplace
- Uninvited touching, kissing or embracing, making promises or threats in return for sexual favours
- Displays of sexually graphic material including posters, cartoons and screensavers
- Repeated invitations to go out after prior refusal
- Staring or leering at a person or parts of their body
- Sexually explicit conversation
- Persistent questions or insinuations about a person's private life
- Any behaviour that creates a sexually hostile work environment

Behaviour that is based on mutual attraction and that is consensual, welcome and reciprocated is not sexual harassment.

Bullying

Workplace bullying is the repeated, less favourable treatment of a person by another or others in the workplace. It includes behaviour that intimidates, offends, degrades or humiliates a worker.

Bullying can be distinguished from more common examples of harassment in that it is often about changing the perceptions and behaviours of others, whereas harassment focuses on belittling or targeting individuals or groups on the basis of perceived differences.

Bullies may use loud and aggressive tactics like yelling or screaming abuse. They may also use subtle intimidation like inappropriate comments about personal appearance, constant criticism, isolating workers from normal work interaction, withholding information or imposing impossible deadlines.

Victimisation

Victimisation involves treating someone unfairly because they have made, or intend to make, a discrimination or harassment complaint. This also includes those who have supported another person in making a complaint.

Workplace discrimination and harassment, including sexual harassment, bullying and victimisation, will not be tolerated at HNCCA. Any conduct amounting to discrimination or harassment will be addressed promptly and in a serious manner.

Roles and Responsibilities

All Employees and Volunteers

All Employees and Volunteers have the responsibility to monitor their own conduct and to maintain appropriate standards of behaviour. Further, all employees and volunteers must:

- Act in accordance with the Code of conduct
- Speak out against discrimination and harassment if it is witnessed
- Be aware of the issue of harassment, of the forms it can take and of the damage it can do to individuals and the organisation
- Ensure that their conduct does not include behaviour that could possibly constitute harassment

Director, Management team and Management Committee

Director, Management team and Management Committee have additional responsibilities, and are expected to:

- Be aware of and familiar with the Centre's policy on workplace discrimination and harassment and its application
- Actively support and promote this policy
- Set a good example of professional behaviour and establish high standards of behaviour in the workplace
- Take action to stop discrimination and harassment immediately it is observed or reported
- Encourage employees to report instances of workplace harassment
- Respond promptly, seriously and with sensitivity to every complaint

It is important to note that managers and nominated supervisors have a positive duty to prevent discrimination and harassment in the workplace. That is, they must be proactive in addressing incidents when they become aware- or could reasonably be expected to be aware- of them. This includes cases where the employee has not made a complaint.

Further, a supervisor or manager who contributes to assist or encourages unacceptable behaviour may be held personally liable in any civil court action that may be taken by a complainant, without support or indemnity from the Centre.

Procedures

The review of allegations or harassments/ discrimination may be divided into two major parts: an informal resolution process and a formal resolution process.

Informal Resolution Process

Any employee who believes he or she is being subjected to any kind of discrimination/ harassment should not ignore it, as ignoring it may be seen as unspoken consent from the alleged harasser's point of view.

Any incident or situation that an employee believes involves discrimination by a colleague, supervisor, director or other individual must be brought to the immediate attention of those who are involved in the resolution of the case. If an employee alleges discrimination by a nominated supervisor, another member of the Management team

should seek to resolve the issue, failing that it should be reported to the Management Committee. If a member of the Management team receives an allegation of discrimination he or she is bound to investigate and, if appropriate, take remedial action.

Generally, these issues can be resolved without the need for formal intervention.

The options available to you are:

- Talk to the person who is making you feel uncomfortable or whom you may have offended (if you feel able)
- Talk to your Nominated Supervisor
- Talk to a Management Committee member

In many instances, such simplistic measures are a success as:

- It allows the matter to be addressed quietly and without labels being attached to anyone. This is particularly important where the behaviour was unintentional or misguided.
- It allows for positive action to be taken to correct or alter behaviour.
- It allows management to develop preventative measures throughout the workplace without attributing blame to one person or another. This can be important when the discrimination is the result of group behaviour or when what has been regarded as 'normal' behaviour in the work place is perceived as discrimination by someone new to the workplace.
- It focusses effort on putting future working relationships onto a proper basis by clarifying what is regarded as acceptable behaviour and what is not.

Leaving employees with no option other than to accept continuing offensive behaviour is not an acceptable solution. Nominated Supervisors should ensure that the situation is resolved to the satisfaction of the affected parties. At the same time, the nominated supervisor should ensure that the person alleging discrimination is acting in good faith and not out of malice. It is important that should any investigation be conducted that it complies with principles of procedural fairness, which include informing the alleged discriminator of the substance of the allegations made and giving them an opportunity to put their case forward. It should be noted that procedural fairness may require the identification of the person alleging discrimination.

If the employee who has complained of discrimination is satisfied with the outcome of the informal process, he or she should inform their supervisor so that normal working relationships can resume.

Formal Process

If you are not satisfied with the outcome of the informal discussions, or you feel that you are unable to raise the issue through informal means you should contact the Director and Management Committee. All formal complaints must be reported to the Management Committee. In some cases, it may be appropriate for the Management Committee to appoint an independent person to investigate an allegation of harassment so as to determine whether any further action may be required. If the matter is so serious or sensitive that it is inappropriate for it to be investigated within the Centre a request for review can be lodged direct with the Regulatory Authorities.

Record Keeping

It is important that you document any action taken to address complaints. Records enable recurring patterns of behaviour or continuing problems in the workplace to be identified and corrective action be taken. In addition, adequate records will be essential if the matter leads to formal misconduct action, i.e. to determine whether the behaviour is a breach of Code of Conduct and a sanction is subsequently imposed. Should there be questions as to whether a discrimination claim was properly handled, adequately maintained records may be vital in any later review of the processes undertaken.

It is important that investigations of allegations of workplace discrimination maintain confidentiality with information provided only on a 'need to know' basis. Because of the sensitivity of material relating to workplace discrimination, special care should be taken to protect the confidentiality of any records relating to complaint processes.

Criminal Law

There may be instances where harassment amounts to an offence under criminal law. Incidents involving physical or indecent assault, stalking, the sending of obscene material electronically or through the mail, and the making of nuisance phone calls, for example, may be offences under criminal law and should be reported to the police.

ENDORSEMENT BY THE SERVICE

Date Approved by Director: ____ / ____ / ____

Signature of Approval by Director: _____

Date Approved by Management Committee: ____ / ____ / ____

Signature of Committee Representative: _____

Role of Committee Representative: _____

Date for Review: ____ / ____ / ____