



# **BULLYING & DISCRIMINATION POLICY & PROCEDURES**

## **INTRODUCTION**

Axess Ability regards the dignity and autonomy of all people as a core value of the organisation. Bullying behaviour is based on the misuse of power in human relationships, and negates the dignity and autonomy of its victims.

Axess Ability endorses diversity, supports equal rights, and does not advocate, support or practice discrimination based on race, religion, age, national origin, language, sex, sexual orientation, or mental or physical disability, whether covered by applicable legislation or not, except where affirmative action may be required to redress individual or social impairment of people from disadvantaged groups.

Axess Ability regards the health and safety of its staff, volunteers, and users as a primary responsibility. Bullying can affect health and wellbeing.

Axess Ability is fully committed to eliminating, as far as possible, all forms of bullying in the workplace and in its relationships with its users through a culture of openness, support, and accountability.

Axess Ability acknowledges the Aboriginal and Torres Strait Islander peoples and will not discriminate against their culture or cultural beliefs.

## **PURPOSE**

The purpose of this document is to outline Axess Ability's position on bullying and discrimination and documents the process which is to be followed should any instances of bullying or discrimination be reported.

## **POLICY**

Axess Ability has a duty of care to provide a safe workplace. Axess Ability accepts and acts on its duty of care. Any allegations of workplace bullying or discrimination that are reported must be investigated.

All incidences of bullying or discrimination will be dealt with promptly, thoroughly, and fairly.

Complaints will be treated in confidence, and where confidentiality cannot be guaranteed this will be clearly indicated to the complainant.

All parties will be treated with respect.

The person against whom the allegation is made has the right to natural justice (the right to know what is alleged against them, the right to put their case in reply, and the right for any decision to be made by an impartial decision-maker).

## **RESPONSIBILITIES**

It is the obligation and responsibility of every person to ensure that the workplace is free from bullying and discrimination. The responsibility lies with every manager, supervisor, employee and volunteer to ensure that discrimination or victimisation does not occur.

It is the responsibility of the Partners to ensure that:

- they understand, and are committed to, the right of all employees and volunteers to attend work and perform their duties without fear of being bullied in any form
- all reasonable steps to eliminate bullying and discrimination are made
- all applicable occupational health and safety legislation is observed
- all employees and volunteers are regularly made aware of their obligations and responsibilities in relation to providing a workplace free from bullying
- they provide an environment which discourages bullying and discrimination, and set an example by their own behaviour
- all complaints are treated seriously and confidentially
- they are as far as practicable aware of whether bullying or discrimination is occurring, whether complaints are received or not, relying on such indices as
  - sudden increases in absenteeism
  - unexplained requests for transfers
  - behavioural changes such as depression
  - sudden deterioration in work performance
- they take immediate and appropriate corrective action if they become aware of any offensive action
- guidance and education are provided, where requested and/or appropriate, to cases and subsequent decisions relating to bullying
- ongoing support and guidance are provided to management, employees and volunteers in relation to the prevention of bullying
- this policy is displayed in the workplace.

It is the responsibility of all employees and volunteers to ensure that:

- they understand and are committed to the rights and entitlements of all employees and volunteers to attend work and perform their duties without fear of bullying in any form
- they provide an environment which discourages bullying and discrimination
- they immediately report any offensive action directed at themselves or others

# PROCEDURES

## Forms of Discrimination

The Anti-Discrimination Act 1991 prohibits Discrimination on the basis of the following attributes:

- sex
- relationship status
- parental status
- race
- cultural belief and practice
- religious belief or activity
- political belief or activity
- impairment
- trade union activity
- lawful sexual activity
- pregnancy
- breastfeeding
- family responsibilities
- gender identity
- sexuality
- age
- or an association with, or relation to, a person identified on the basis of any of the above attributes.

Discrimination can either be direct or indirect.

- Direct Discrimination takes place when an individual is disadvantaged or treated less favourably than another person. An example of direct Discrimination is failing to employ someone because he or she is in a wheelchair.
- Indirect Discrimination happens when a practice or policy appears to be fair because it treats everyone the same way but actually disadvantages people from a particular group. An example of indirect Discrimination is requiring all people who apply for a certain job to pass a written grammar test, even though being able to write in English is not necessary for the job. This test might exclude more people whose first language is not English.

## **Forms of Harassment**

Under federal and state legislation, it is unlawful to harass someone based on any of the attributes specified under the anti-discrimination or human rights legislation. Below are some examples of behaviours that Harassment can take under particular attributes, however this is not an exhaustive list.

### **Sexual Harassment**

Sexual Harassment occurs when a person is subjected to unwanted sexual conduct and which makes a person feel offended, humiliated and/or intimidated where that reaction is reasonable in the circumstances. Sexual Harassment can take various forms such as:

- unwelcome touching, hugging or kissing; staring or leering or suggestive comments; sending sexual material online or via email
- unwanted invitations to go out on dates or requests for sex; insults and taunts based on a person's sex
- behaviour which would also be an offence under the criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

### **Disability Harassment**

Under the Disability Discrimination Act 1992, it is unlawful to harass someone based on their disability or based upon a relative or associate having a disability. Their disability may be in the past, the present or the future. Examples include:

- making rude, abusive or insulting comments or using actions about a person's disability which are insulting or humiliating, such as suggestive pictures, jokes or computer screensavers
- making comments or using actions which create a hostile environment
- using overbearing or abusive behaviour with a person with a disability.

### **Racial Harassment/Culture**

Racial Harassment is any behaviour which is reasonably likely to 'offend, insult, humiliate or intimidate' and can consist of behaviour which negatively comments on a person's race, colour, nationality, accent or ethnic origin. Examples include:

- racially oriented ridicule, e.g. derogatory reference to physical features, skin colour or cultural and religious observances or imitating someone's accent
- displaying or circulating racist cartoons or literature or writing racist graffiti
- isolation or segregation on the basis of race or ethnicity wearing racist symbols (such as badges) or clothing with racist slogans in public.

## **Sexuality**

Harassment under the grounds of sexuality covers those who are heterosexual, lesbian, gay or bi-sexual. Vilification is also prohibited on the basis of sexuality or gender identity. Examples include:

- using derogatory language on the phone, in person or in online discussions to describe a person based on their sexuality or their sexual preference
- using posters in public places to abuse people because of their sexuality
- websites inciting hatred of people who are gay or lesbian, or deriding people on the basis of their sexuality in public meetings.

## **Gender-based Harassment**

Gender-based Harassment is defined as a person who identifies as a member of the opposite sex by living or wanting to live as someone of that sex, or a person of indeterminate sex, who seeks to live as a member of a particular sex. It can include behaviour such as:

- telling someone to use a toilet that doesn't fit with that person's gender self-identity
- derogatory language such as referring to someone as "it", remarks, jokes or practical jokes
- Employees in the reception area of a business discussing a person and making derogatory comments and encouraging members of the public to join in.

## **Age-based Harassment**

Age based Harassment consists of negative references resulting from stereotypes of what people are capable of doing at a particular age. It may include:

- derogatory remarks about a person's age, mental and physical capabilities and appearance
- patronising or humiliating someone because of their age
- isolation or segregation based on someone's age
- circulating ageist cartoons or literature, displaying offensive age related material on walls, online or on computer screens.

## **Workplace Harassment and Bullying**

Workplace Harassment may include:

- physical or verbal abuse
- excluding or isolating a person from normal work interaction, training and development or career opportunities, unreasonable "administrative sanctions" e.g., undue delay in processing applications for training, leave or payment of wages

- psychological harassment such as unexplained job changes and meaningless tasks, assigning tasks beyond a person's skills, failure to give credit where due
- intimidation - for example using unwarranted threats of disciplinary action
- repeated threats of dismissal or other severe punishment for no reason
- giving a person an impossible job or deadline; sabotaging someone's work by deliberately withholding vital information or resources; hiding documents or equipment, not passing on messages, or creating a situation of 'under-work' with a feeling of uselessness
- maliciously excluding or isolating a person from work activities
- unacceptable aggressive manner from the Supervisor
- insulting messages or gestures, such as leaving offensive messages on email or on the telephone.
- inappropriate use of discussion boards and interactive chat rooms
- humiliating a person through gestures, by using sarcasm, belittling someone's opinion, patronising or intimidating remarks
- spreading misinformation or malicious rumours
- constant criticism or insults
- manipulating the impression of others to split the work group into taking sides
- displaying written or pictorial material which may degrade or offend certain Employees
- spreading gossip or false, malicious rumours about a person with an intent to cause that person harm.

### **What Discrimination, Bullying and Harassment is not**

Axess Ability Partners have responsibilities to manage and supervise their Employees, particularly with regard to unsatisfactory performance of duties. Such comment and advice may include critical statements and feedback along with monitoring and review of work and academic performance. The act of correcting/informing Employees and Clients, pointing out areas for improvement, invoking performance counselling or misconduct procedures does not in itself constitute Bullying or Harassment. The Partners have a responsibility to establish and maintain a workplace free from Bullying and Harassment by offering constructive and legitimate advice and comment in a way that does not demean or humiliate either Employees or Clients.

## **Responsibility for the eradication of Discrimination and Harassment**

Axess Ability will take all reasonable steps to prevent or minimise unlawful Discrimination, Bullying, Racism, Cultural, Harassment, Victimisation and Vilification against Employees or Clients in the workplace. It will implement and monitor specific policies, procedures and training programs to help minimise the scope and impact of discriminatory attitudes and practices in the workplace in order to reduce its legal liability. Axess Ability will proactively monitor identified workplace, environment concerns, and implement strategies and support to minimise risks to Employees, Clients and the organisation.

All Employees are expected, when carrying out their duties, to show respect towards all persons.

Individual Employees and Clients have a responsibility not to participate in discriminatory, harassing or victimising behaviour within the workplace and to behave in a respectful, tolerant and equitable manner to all members of the Axess Ability community.

### **The Partners have a particular responsibility to:**

- take reasonably practicable steps to ensure that their workplace and online, is free from Discrimination, Racism, Culture, Bullying and Harassment
- inform all Employees and Clients clearly of what is and is not acceptable behaviour and advise that if claims of Discrimination, Racism, Culture, Bullying, Harassment, Victimisation or Vilification are substantiated, then disciplinary procedures may be invoked
- inform Employees and Clients of the support available to them for resolving Informal Complaints.
- inform Employees and Clients who experience Discrimination, Bullying and Harassment of their rights and provide them with the appropriate policy and procedures to resolve their concerns
- ensure that the Employee or Client not be made to feel that they should take certain action, or no action because of their responsibility to Employees or other Clients
- ensure that Employees and Clients who make a Complaint are not victimised for doing so and respect their privacy and confidentiality at all times
- ensure that the policies and procedures in relation to the resolution of a grievance/Complaint are followed as written
- seek appropriate assistance from the Partners/Committee as required.

### **The Partners are responsible for:**

- education and training campaigns within Axess Ability to eliminate Discrimination, Bullying and Harassment. Racism and Culture issues as they arise

- providing advice to Employees on Discrimination, Racism, Culture Bullying and Harassment
- contacting/nominating external Mediators and Investigators.
- securely archiving all documentation pertaining to Complaints according to Axess Ability policy on record keeping and storage
- maintaining separate statistics in a confidential data base of Complaints
- briefing the Committee on issues arising from the reports.

**The Partners have the responsibility to:**

- develop cross-cultural awareness and sensitivity among Employees and Clients
- encourage due recognition to the history and experiences of the Aboriginal and Torres Strait Islander Peoples of Australia and other ethnic groups
- develop training and resources to assist Employees and Clients in dealing with racist incidents
- encourage sensitivity by Employees and Clients to all teaching, practices and materials with a view to the elimination of racist content.

**Harassment and Diversity Contact Point**

Axess Ability Partners will act as an initial point of contact for Employees and Clients with inquiries about any form of Discrimination, Racism, Culture, Bullying and Harassment claims.

**Complaints Procedures**

Employees or volunteers who believe they are the subject of bullying should take firm, positive and prompt action.

If deemed appropriate, the employee or volunteer should make the perceived bully (or bullies) aware that they find their behaviour offensive, unwelcome and unacceptable, and that it needs to stop immediately.

If the behaviour continues, or if the employee or volunteer feels unable to speak to the person(s) directly, they should contact the Partners, or the Committee member with whom they feel comfortable. The Partners will provide support and ascertain the nature of the complaint and the wishes of the complainant. The complainant does not have to request a full formal investigation if they will be satisfied by less formal treatment of the issue.

**Informal Intervention**

The Partners will explain the employee’s or volunteer’s rights and responsibilities under Axess Ability policy and procedures.

Informal intervention may be done through a process of either mediation or conciliation. During informal intervention the respondent will be made aware of the allegations being



made against them and given the right to respond. Interventions at this stage should adopt a confidential, non-confrontational approach with a view to resolving the issue.

This procedure will be complete when the alleged harasser respects the individual's request to cease unwanted and unwelcome behaviour, or when the complainant accepts that the behaviour is not properly described as bullying. If neither of these outcomes occurs, the organisation's formal procedure should be followed.

## **Formal Complaints Procedure**

Proceeding with a formal complaint requires the consent of the person complaining, particularly as witnesses or senior management may become involved. The formal procedure will be coordinated by the responsible Partner.

The Partners concerned should clarify the complaint and obtain a step-by-step account of the incident. In serious cases, more than one interview may be necessary.

The Partners will document all such interviews accurately and avoid irrelevant information. This record will include parties involved, timing, location, and nature of conduct complained against.

Records are to be kept and filed in a confidential and secure place. These records should be kept for a period of seven years. Under no circumstances will records be placed on the complainant's personnel file.

The Partners will organize an investigation, which in most cases will involve (but is not be limited to):

- a private interview to ascertain the facts and to find what the complainant expects to happen as a result of making the complaint;
- an interview with the alleged harasser(s) to ascertain their defence;
- interviews with other employees, volunteers or individuals who may be able to assist; and
- examination of any relevant documents.

All relevant evidence should be considered by the person conducting the investigation. Such evidence may include:

- supporting (or contradictory) evidence provided by medical practitioners, counsellors, family members, friends, or co-workers;
- Supervisors' reports and personnel records;
- records kept by the person claiming to have been bullied;
- information on whether the evidence was presented by the parties in a credible and consistent manner; and
- information on the absence of evidence where it should logically exist.

It may be necessary to provide affected employees/volunteers with alternative working arrangements to avoid further conflict while the bullying complaint is being investigated. The complainant may also require counselling to develop coping strategies for dealing with the situation while the problem is being resolved.

The person conducting the investigation should keep all affected parties informed and document all investigation actions and outcomes.

On completion of the investigation, the complainant and the Partners will determine a course of action to be taken. This may involve guidance from the Committee, where applicable.

Possible courses of action may include, but will not be limited to, any combination of the following:

- counselling;
- disciplinary action against the bully or bullies (e.g. demotion, transfer, suspension, probation or dismissal);
- official warnings that are noted in the bully or bullies' personnel file;
- if there is strong evidence that the complaint was vexatious or malicious, disciplinary action against the person who complained;
- formal apologies and undertakings that the behaviour will cease;
- conciliation/mediation conducted by an impartial third party, where the parties to the complaint agree to a mutually acceptable resolution;
- compensation from the organisation.

Determination of whether bullying has occurred will rest solely on the weight of the evidence. If it is determined that bullying has taken place then outcomes will depend upon factors such as:

- the severity and frequency of the bullying;
- the wishes of the person who was subjected to the offensive behaviours;
- whether the bully could have been expected to know that such behaviour was a breach of policy;
- the level of contrition shown by the bully;
- whether there have been any prior incidents or warnings.

The relevant Partners will advise all relevant parties of the outcome.

If the investigation determines that bullying has occurred, or that vexatious or malicious accusations have been made, the Partners must place on file a summary of the complaint and the action taken. A copy may be placed in the respondent's personnel file in accordance with performance counselling procedures.

If there is insufficient proof to decide whether or not bullying has occurred, the Partners concerned will:

- remind those involved of expected standards of conduct;
- conduct further training awareness raising sessions for staff and volunteers;
- monitor the situation carefully.

The Partners will monitor the outcome to ensure that the offensive behaviour has ceased, and that neither party has been victimised. This may involve follow-up interviews. If there has been any substantiated victimisation, appropriate disciplinary procedures will be followed.

## **Procedures for Dealing with Criminal Conduct**

Some forms of severe bullying (physical attack, for example, or obscene phone calls) may constitute criminal conduct. While Axxess Ability is committed to treat most complaints about bullying at an organisational level as far as possible, this type of conduct is not suited to internal resolution. Such complaints should be treated by the criminal justice system. Employees or volunteers should be advised of the option of police support or intervention. It

is not the obligation or duty of the organisation to report such matters to the police on behalf of the complainant.

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## REFERENCES

Forms	CF0004 Client Complaint Form CF0006 General Complaint Form
References & Work Instructions	CF0008 How to make a complaint V0006 Prevention of Discrimination, Racism, Bullying and Harassment Procedure
Relevant Policies	CF0001 Complaints Policy & Procedure HR0004 Equal Employment Opportunity Policy
Relevant Standards	DHHS Standards: Wellbeing QIP Standards:
Contact Person	Nigel Head (Owner/Partner) – 0481056715 Michelle Scarlett (Owner/Partner) – 0481066538

## APPROVAL AND REVISION HISTORY

FORM No	Approved/Amended/Rescinded	Date	Name	Position
V0005	Approved	31/1/18	Keith Rose	Committee President
V0005	Amended	13/07/20	Nigel Head	Partner