



Discrimination, Harassment and Bullying Policy

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Overview

The purpose of this Policy is to ensure that The Anglican School Googong (the School) provides a work environment which is fair, non-discriminatory and conducive to healthy productive working relationships. It provides direction to staff, volunteers and contractors regarding their obligations under relevant law on unlawful discrimination, harassment and bullying as it pertains to the workplace. It is important that staff understand and are familiar with the concepts and obligations under the Policy, both for the wellbeing of the workplace and to ensure that possible breaches of the law do not occur.

Objective

To provide direction to staff regarding their obligations with respect to complying with the relevant law on unlawful discrimination, harassment and bullying as it pertains to the workplace.

Policy

Everyone who studies, works or volunteers at the School has the legal obligation not to discriminate against, or harass for any unlawful reason, or bully for any reason any employee, agent, contractor, supplier, volunteer, parent, student or visitor. Everyone at the School has a work health and safety duty with 'health' being defined in the WHS Act as both physical and psychological health.

The School requires all staff members to treat each other and other people with whom they come into contact as representatives of the School with respect, courtesy and equity.

The purpose of the School's Discrimination, Harassment and Bullying Policy is to make staff aware of:

- a) what 'unlawful workplace discrimination', 'harassment' and 'bullying' mean;
- b) the procedures the School has in place to manage workplace complaints relating to discrimination, harassment and bullying; and
- c) who staff can talk to at the School if he/she feels someone is acting inappropriately and wish to make a complaint.

Responsibilities

This policy applies to all employees, contractors and volunteers engaged by the School and applies to behaviour:

- in the workplace, including while working outside normal working hours;
- while undertaking work activities including interaction with parents or other third parties and while working away from the School (e.g. School trips or sport activities)
- at work-related events e.g. conferences and social functions.

Whilst the Principal has overarching responsibility for this policy document, the following are also responsible for monitoring this document in relation to their roles and responsibilities and for ensuring that it is updated as required.

- **Head of Senior School**
- **Head of Junior School**
- **Executive Assistant to the Principal**

Definitions

'**Discrimination**' is defined as treating one person or group less favourably than another or causing them disadvantage. Unlawful discrimination is discrimination which law has defined as unacceptable.

There are a number of Federal and State laws which presently make discrimination unlawful on a variety of grounds (unlawful reasons) including:

- sex, marital or relationship status, pregnancy, breastfeeding or family responsibilities;
- sexuality or sexual preference;
- race, colour, descent, nationality, national origin, ethnicity or ethno-religious origin;
- religious belief or activity;
- political belief or activity;
- trade union activity;
- disability or impairment;
- transgender status or gender identity;
- age;
- responsibilities as a carer; or
- service in the voluntary defence forces.

'**Staff**' refers to all teaching, support and other staff members, collectively or individually depending on context. For the sake of brevity and as in common spoken parlance, the word 'staff' is generally used throughout this and related documents in place of 'staff members'.

'**Repeated behaviour**' refers to the persistent nature of the behaviour and can involve a range of behaviours over time.

'**Unlawful harassment**' is a type of unlawful discrimination. In general, unlawful harassment is any form of conduct or behaviour which affects a person that:

- is unwelcome (not wanted) or uninvited (not asked for); and
- is based on one of the unlawful reasons; and
- a reasonable person would have anticipated might humiliate, offend or intimidate the person exposed to the conduct.

'**Unreasonable behaviour**' means behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.

'**Workplace bullying**' is defined as repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety.

Related School Policies

Please note that there are a number of other School policies of which you need to be aware and understand including (but not limited to):

- a) **Staff Code of Conduct** Policy;
- b) **Grievance** Policy;
- c) **Work Health and Safety** Policy.

Procedures for Implementing the Policy

Types of Discrimination

- Discrimination can occur in the recruitment process, during the course of employment or upon termination of employment. Discrimination can also occur in the provision of goods or services. Staff members should not discriminate against co-workers, contractors, volunteers, parents and students
- Direct discrimination occurs where someone is treated less favourably because of their sex, age, racial group etc. An example of direct discrimination is when an employee misses out on an internal promotion because they are considered too old for the job.
- Indirect discrimination occurs where everyone is treated on the same terms according to a rule, policy or directive but which has the effect of being less favourable to people of a particular sex, age group, race, religion etc and which is not reasonable in all the circumstances. An example of indirect discrimination would be a School policy stating that the School will never engage any part time teachers – this would impact on teachers who may wish to work part time due to carers' responsibilities and would most likely exclude a large proportion of women – and such a restriction is not reasonable.
- There are exceptions from anti-discrimination law which may apply in some situations – for example, because of the requirements of a particular job. It may be reasonable to employ only women to supervise in a girls' boarding School.

Unlawful Harassment

- Types of unlawful harassment include, but are not limited to:
 - sexual harassment;
 - verbal abuse or comments that degrade or stereotype people because of their race, sex, sexuality, pregnancy, disability, etc;
 - jokes based on race, sex, sexuality, pregnancy, disability etc;
 - mimicking someone's accent, or the habits of someone with a disability;
 - offensive gestures based on race, sex, sexuality, pregnancy, disability, etc;
 - bullying a person because of their race, sex, sexuality, pregnancy, disability, etc;
 - ignoring or isolating a person or group because of their race, sex, sexuality, pregnancy, disability, etc; or
 - display or circulation of racist, pornographic or other offensive material (including in electronic format);
 - physical or verbal violence
- Harassment might not be unlawful, if it is not based on one of the unlawful reasons. However, the School expects its staff to treat each other and other people with whom they come into contact as representatives of the School with respect and courtesy.
- In some cases a single action or incident can create unlawful harassment. In other cases there may need to be a persistent pattern of behaviour before unlawful harassment has occurred.

Unlawful sexual harassment

- Unlawful sexual harassment is not allowed by law. A person sexually harasses another person if:
 - the person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person; or
 - engages in other unwelcome conduct of a sexual nature in relation to the person;

- In circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person exposed to the conduct would be offended, humiliated or intimidated.
- Unlawful sexual harassment includes, but is not limited to:
 - pressure or demands for dates or sexual favours;
 - unnecessary familiarity - for example, deliberately brushing against a person or constantly staring at a person;
 - unwanted physical contact - for example, touching or fondling;
 - sexual jokes or innuendo;
 - offensive telephone calls;
 - offensive sexual gestures;
 - unwelcome comments or questions about a person's sex life;
 - display, circulation of sexual material, including magazines, posters or pictures (including in electronic format);
 - sending email or text messages which contain sexual content or tone; or
 - sexual assault.
- It is important to understand that some of these forms of sexual harassment are also criminal behaviour and may be treated as a criminal offence.
- Mutual attraction between people is not sexual harassment. Conduct which is welcome or consensual is not unlawful, and friendships (sexual or otherwise) which develop between people who meet at work are a private concern provided they do not impact on the workplace or the School.
- However, staff should take great care before engaging in conduct referred to above, even when they have reason to believe it may be welcomed. Staff should remember that some people may not feel comfortable telling you that your behaviour is offending them and is not welcome. This may be because of their personality or concerns about the possible impact on their employment if they complain. It is each employee's responsibility to ensure that he/she does not engage in conduct which is unwelcome. Similarly, it is the employee's responsibility to tell the person if he/she does not feel comfortable with their behaviour. If this is not possible, the staff member should raise the issue with their immediate supervisor.
- Staff should also remember that even conduct which is welcome may not be appropriate in the workplace. If unsure whether conduct is appropriate, staff should speak to the Head of School, or a supervisor.
- Any personal friendships that develop should not adversely impact on the School, staff responsibilities to do undertake their work, or on the performance or productivity of co-workers.

Bullying

- Workplace bullying is repeated, unreasonable behaviour directed toward a staff member, other individual, or group that may cause harm, including risks to health and safety. Workplace bullying can be directed at a single worker or group of workers and be carried out by one or more workers. It can occur:
 - sideways between workers
 - downwards from managers to workers
 - upwards from workers to supervisors or managers.
- Workplace bullying can also be directed at or perpetrated by other people at the workplace such as volunteers, contractors, students, and members of the public.

- Unreasonable behaviour means behaviour that a reasonable person having regard to all the circumstances would expect to humiliate, intimidate or threaten another person. Such behaviour can include an individual's or group's actions or practices which humiliate, intimidate or threaten another person.
- Bullying may also amount to unlawful discrimination or harassment.
- The following types of behaviour, particularly if directed towards an individual repeatedly, may amount to bullying:
 - demeaning language;
 - threats;
 - verbal abuse;
 - outbursts of anger or aggression;
 - physical or verbal intimidation;
 - physical or verbal violence;
 - excluding or isolating; belittling someone;
 - spreading rumours or innuendo about someone;
 - interfering with someone's personal property or work equipment;
 - unjustified criticism or complaints;
 - deliberately excluding someone from workplace activities;
 - deliberately denying access to information or other resources;
 - withholding information that is vital for effective work performance;
 - deliberately changing work arrangements, such as rosters and leave, to inconvenience a particular worker or workers
 - setting unreasonable timelines; and
 - unreasonable scrutiny at work.

Upwards Bullying

- Upwards bullying is a term to define the bullying and harassment by staff of their immediate supervisor or other members of the School management. Upwards bullying will not be tolerated. Examples include:
 - repeated undermining and defiance of legitimate authority;
 - repeated public and private questioning of legitimate decisions;
 - repeated resistance to direction;
 - repeated imputation of malign motive in every management decision;
 - repeated informal complaint to senior staff members that has the effect of undermining reputation but without triggering formal proceedings;
 - active involvement of students in management issues;
 - conspiratorial behaviour and conversation at work;
 - conspiratorial behaviour and conversation at work, socially and online that has the effect of social and workplace isolation and the destruction of established friendships; and
 - the solicitation, circulation and perpetuation of gossip, rumour, innuendo and exaggerated descriptive language about the personal character of the individual in authority

Behaviour which is not bullying

- Differences of opinion and disagreements are generally not considered to be 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.
- Performance management and directions in relation to the performance of work or conduct required by the School do not constitute bullying or harassment.
- Reasonable management actions carried out in a fair and reasonable way are not bullying. For example, the following actions are not defined as bullying:
 - setting standards and deadlines
 - allocating work to a worker
 - transferring a worker
 - deciding not to select a worker for promotion
 - informing a worker about unsatisfactory work performance or inappropriate behaviours
 - providing constructive feedback.
 - rostering and allocating working hours
 - implementing organisational changes
 - performance management processes
 - constructive feedback
 - downsizing
 - transferring a worker
- It is important to distinguish between a person reasonably exercising their legitimate authority at work in a proper and reasonable way, and instances of bullying. Managers and supervisors have a broad range of responsibilities including directing and controlling how work is performed. They are responsible for monitoring workflow and providing feedback to employees on their work performance.
- Feedback provided properly with the intention of assisting staff to improve performance or behaviour does not constitute bullying. Care should be taken, however, to ensure that any performance problems are identified and dealt with in an objective and constructive way that is neither humiliating nor threatening.
- Poor management practices, while undesirable, do not normally constitute bullying. Differences of opinion and personality clashes likewise, will not normally constitute bullying providing the interaction is appropriately conducted.

Consequences of Bullying

- Bullying can be harmful to the organisation as well as to individuals. It can result in:
 - Increased absenteeism
 - High staff turnover
 - Breakdown of staff morale
 - Poor public image
 - Reduced productivity and efficiency
 - Increased costs through litigation and workers compensation.
- Individuals targeted by bullying may experience:

- High levels of distress
- Anxiety, panic attacks and depression
- Ill-health, insomnia
- Loss of self-esteem and confidence
- Social isolation
- Reduced work performance and/or incapacity to work
- Deteriorating relationships with family and friends.

Employee Obligations

- All employees of the School have a legal obligation not to discriminate against, or harass for any unlawful reason, or bully for any reason any employee, agent, contract worker, contractor, supplier, parent, student or visitor.
- Staff must always consider how their behaviour will be viewed by the person or people with whom they are dealing. One can unlawfully harass someone, bully someone or unlawfully discriminate against someone even without intending to do or say anything offensive. It is not a legally acceptable defence to say that you did not mean or intend to humiliate, offend or intimidate somebody else.
- It is sometimes difficult to know whether a person will find one's behaviour acceptable. What is offensive to one person may not be offensive to another. Staff should be careful not to risk being misunderstood and, as a result, becoming the subject of a complaint.
- If anyone in the School community witnesses unreasonable behaviour he/she should bring the matter to the attention of relevant managers as a matter of urgency.

Process for Complainant

- Appropriate disciplinary action will be taken against a person who is found to have breached this policy.
- If a staff member feels that he/she is being unlawfully harassed, discriminated against or bullied, they should not ignore the issue but seek to resolve the problem. Ignoring the behaviour could be taken as tacit approval by the person causing the harassment, discrimination or bullying.
- If appropriate, and the person experiencing harassment, discrimination or bullying feels comfortable to do so, he /she should ask the person to stop, or make it clear that he/she finds the behaviour offensive or unwelcome. It may be useful to speak with a supervisor in the first instance to seek guidance on how to do this.
- Should the behaviour persist, or the person experiencing harassment, discrimination or bullying feels unable to address the issue directly, a grievance should be made in accordance with the Grievance Policy, as soon as possible after the incident(s) have occurred.
- A person who feels that he/she is being victimised because they have made or propose to make a complaint of unlawful discrimination, harassment or bullying or because he/she has provided information in relation to a complaint, should raise the issue as soon as possible with the Head of School.
- If the complaint involves the Principal then it should be raised as a grievance with the Chair of the School Board. Refer to Grievance Policy.
- Accusations of unlawful discrimination/harassment can harm the reputation of those involved and could lead to legal action for defamation. Matters of this kind must be dealt with confidentially on a need to know basis. Do not discuss this matter generally with colleagues or members of the School community.

Resolution of Complaints

- All complaints will be treated seriously and generally in accordance with the School's Grievance Policy. The School will determine the most appropriate method of dealing with the grievance. Staff should refer to the School's Grievance Policy.
- The School will take whatever action it considers appropriate if there has been unlawful discrimination or harassment or bullying, including disciplining or dismissing offenders.
- Persons affected by this Policy should be aware that if he/she fabricates or exaggerates a complaint, the School will view this as a very serious matter.

Victimisation

- For a workplace to be free from bullying and harassment it is essential that people feel comfortable raising legitimate concerns and having them addressed. This extends to those who may be called upon to provide information about a complaint made by a colleague.
- Victimisation refers to causing a person some detriment, for example, ostracising an employee or excluding them from an opportunity or activity, as a direct result of that person making a complaint or being involved in a complaint.
- Victimisation should never take place at the School. In particular, a person should not be victimised because they have made or propose to make, a complaint of unlawful discrimination, harassment or bullying or because they have provided information in relation to a complaint.