



Workplace Bullying, Harassment & Discrimination

Category: Risk Management and OH&S
Policy and Procedure

POLICY

Ballarat Community Health (BCH) upholds and promotes the right of people to be in a work environment where everyone is treated with respect, equity, dignity and fairness. Therefore harassment, discrimination or bullying of any kind will not be tolerated.

- BCH expects all employees, regardless of their position within the organisation, to behave in a professional manner and to treat each other with dignity and respect. Compliance with this policy is an essential part of meeting that expectation. Disciplinary action may result where there is non-compliance.
- BCH is committed to ensuring that there is no bullying, harassment or discrimination in the workplace and encourages employees to report any instance of bullying and harassment or discrimination promptly so that appropriate action can be taken.
- BCH undertakes to ensure that all employees, regardless of their level within the organisation, are fully aware of their obligations under this policy.
- BCH will have a number of Contact Officers, who will be elected by employees of BCH.
- BCH undertakes that all employees will be fully supported by BCH throughout the process.
- If an employee who has made a complaint or an employee against whom a complaint has been made, feels victimised in any way as a result of the complaint, they should submit a grievance in writing under the Grievance Procedure.

If a staff member believes that he or she is experiencing or has experienced workplace bullying, harassment or discrimination the steps outlined in this Procedure should be followed.

RATIONALE

BCH is committed to providing all employees with a healthy and safe work environment free from workplace bullying, harassment or discrimination.

This policy is one of the steps taken by BCH to ensure that the workplace is free from bullying, harassment or discrimination. The policy also identifies the procedures to be taken in the event of any bullying or harassment complaint.

BCH is committed to ensuring that all parties are treated reasonably, fairly and with respect and that confidentiality is maintained at all times.

SCOPE

This policy is applicable to all BCH staff and contractors irrespective of their employment status.



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RESPONSIBILITIES

Team Leaders

Team Leaders at BCH have the primary responsibility for ensuring that bullying, harassment or discrimination of staff members does not occur.

Team Leaders have a responsibility to:

- Monitor the working environment to ensure that acceptable standards of conduct are observed at all times.
- Model appropriate behaviour themselves.
- Promote BCH's bullying, harassment and discrimination policy within their work area.
- Treat all complaints seriously and take immediate action to resolve the matter in accordance with this policy.
- A Team Leader may refer complaints to another officer (trained in dealing with harassment in the workplace), if they do not feel that they are the best person to deal with the matter (for example, if there is a conflict of interest or if the complaint is particularly complex or serious).

Staff Members

All BCH staff members have a responsibility to ensure that they do not participate in bullying, harassing or discriminating behaviour in the workplace, and to work to eradicate these behaviours in the workplace.

BCH staff members have a responsibility to maintain complete confidentiality if they provide information during the investigation of a complaint. Staff should be aware that spreading gossip or rumour may expose them to a defamation action or mean they are a party to a claim of victimisation.

The Contact Officer

The Contact Officer shall:

- Act as a resource for information regarding workplace bullying, harassment or discrimination.
- Provide information for employees making complaints and employees who are the subject of complaints or provide assistance to employees to access support services.
- Comply with BCH's workplace bullying, harassment and discrimination policy.
- Report any bullying, harassment or discrimination they experience at the first available opportunity, so as to enable BCH to address the issue.
- Offer support to anyone who is being bullied, harassed or discriminated against and advise them where they can obtain help and advice.

Reporting of Complaints



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BCH will report on complaints of workplace bullying, harassment or discrimination including the outcome of those complaints.

The report shall be prepared by the HR Coordinator, on a six monthly basis and the results presented to the OH&S Committee and the Board of Directors. The report shall not contain materials that enable the identification of any staff member.

DEFINITIONS

Bullying

Repeated unreasonable behaviour directed towards an employee, or a group of employees, that creates a risk to the mental or physical health of the employee.

Bullying is *not* reasonable action taken in a reasonable manner by the employer to:

- direct an employee in the performance of his or her work;
- manage employee performance;
- investigate alleged misconduct;
- discipline an employee for misconduct; or
- allocate work in accordance with BCH's policies and procedures.

Unreasonable behaviour

Behaviour that a reasonable person, having regard to all the circumstances, which they could expect would victimise, humiliate, undermine or threaten the other person. Repeated behaviour does not mean that the bullying need necessarily involve repeated instances of the same type of unreasonable behaviour. A pattern of behaviour involving a series of different types of unreasonable behaviour may constitute bullying.

Examples of behaviour that could constitute bullying include:

- Excluding someone from workplace activities or interaction
- Giving someone the majority of unpleasant tasks, or allotting meaningless tasks
- Imposing impossible deadlines
- Verbal abuse
- Humiliating someone through sarcasm or insults
- Intimidation
- Deliberately withholding information that is vital for effective work performance
- Changing rosters with the intent of inconveniencing a particular employee.

Harassment

Unwelcome physical or verbal conduct. Harassment may involve (but is not limited to) any of the behaviours listed above under the definition of bullying.

Harassment, including sexual harassment, may be found to have occurred if the behaviour makes the person claiming to have been harassed feel:

- Offended and humiliated
- Intimidated or frightened and/or



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- Uncomfortable at work.

Discrimination

Less favourable treatment of someone due to some characteristic or attribute they have that is irrelevant to the decision being made

Attributes include: impairment, sex, sexual orientation, lawful sexual activity, pregnancy, marital status, parental status, breastfeeding in public, carer status, race, religious belief or activity, political belief or activity, industrial activity, age, physical features, personal association.

Complainant

The person who lodges the complaint.

Respondent

The person cited as having committed the nominated behaviour.

PROCEDURE

The preferred method of resolving issues of discrimination, harassment or bullying is through the informal procedure, these alternatives aim to assist the parties to reach agreement on a mutually acceptable outcome. As such the *Informal Complaints Process* outlined below should be followed in the majority of cases.

Where an informal resolution process does not provide resolution for the parties, the *Formal Complaints Process* should be followed.

Informal Complaints Process

An informal complaint is a verbal complaint. It is an employee's responsibility to attempt to resolve an issue with the other party concerned in a fair and reasonable way.

The Complainant can discuss the matter with a Contact Officer who will assist the Complainant to decide how best to deal with the situation and to explain all options for resolution.

The Complainant's options for resolution of a complaint using the informal process of resolution are as follows:

1. Raise the issue with the other party directly.
2. Discuss the issue with their Team Leader who may mediate an outcome between the two parties. The outcome being the decision of the two parties.
3. Discuss the issue with their Team Leader who may negotiate between the two parties to reach an agreement that is acceptable to both.
4. Discuss the issue with their Team Leader who may take an indirect form of resolving the matter such as training.
5. Raise the issue with their Team Leader so that the Team Leader may place them self in a



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position to observe the inappropriate behaviour and intervene directly as a staff supervision issue.

6. Where a complaint involves a Team Leader the Complainant can discuss the issue with the CEO or HR Coordinator.

Documentation should be completed for all meetings, including any outcomes agreed upon and dates by which these should be completed. A copy of each meeting is to be forwarded to the Complainant.

Formal Complaints Process

The Formal Complaints Process should be used when:

- A. Matters have not been satisfactorily resolved at the informal level;
- B. The matter involves serious allegations that, if proved, would warrant workplace discipline or legal action;
- C. The Respondent denies the allegations.

A formal, written complaint should be lodged as soon as possible after the occurrence of the alleged workplace bullying, harassment and/or discrimination occurred or as soon as it has been determined that the informal process has been unsatisfactory.

While investigations take place and until the grievance is settled, work is to continue normally in accordance with the custom and practice of BCH before the grievance arose. If this is not appropriate then alternative arrangements will be made by the Team Leader or CEO, whom ever is the most appropriate given the circumstances.

Any complaint which falls into the above three categories should be lodged by the Complainant in writing with sufficient detail for the complaint to be investigated.

Once lodged, the response to the complaint will be as follows:

- The written complaint should be passed on to the HR Coordinator who will acknowledge receipt of the complaint as soon as possible but within five working days. The Complainant shall be provided with a signed and dated acknowledgment of the complaint.
- The written complaint shall be sent to the Complainant's Team Leader. If the complaint pertains to the Complainant's Team Leader, the complaint shall be sent to CEO. The Team Leader shall acknowledge receipt of the complaint to the Complainant and the HR Coordinator in writing as soon as possible but within five working days. The letter shall also advise the Complainant of their rights and responsibilities, including that the statement is confidential and should not be discussed with anyone and they should not contact the Respondent directly with regard to the complaint.
- Where the complaint pertains to the CEO, the complaint shall be sent to the HR Coordinator, who will acknowledge receipt of the complaint in writing as soon as possible but within 5 working days and advise the Chair of the BCH Board as soon as possible but within 5 working days. (In the instance of a complaint pertaining to the CEO, where the resolution process nominates the CEO, this will be read as the Chair of the Board.



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- The Team Leader shall advise the Respondent in writing as soon as possible but within five working days, that a complaint has been lodged against them. The letter shall advise the name of the Complainant, an outline of the complaint and the Respondent's rights and responsibilities, including that the statement is confidential and should not be discussed with anyone and they should not contact the Complainant directly with regard to the complaint.
 - Within five days of receipt of the complaint, the HR Coordinator in consultation with the CEO will begin an investigation into the complaint. The person conducting the investigation shall have access to all persons and information they consider relevant and act expeditiously.
 - Upon completion of the investigation as soon as possible or within five working days, the investigator will prepare a Report into investigation of the complaint and the outcomes and forward to the Complainant, Respondent, Team Leader and CEO.
 - If the written complaint and subsequent investigation establishes that the alleged behaviour does not breach the BCH Bullying, Harassment & Discrimination Policy or relevant legislation, the Complainant shall be informed in writing that no further action will be taken and the reason(s) for that decision.
 - If the written complaint and subsequent investigation establishes that the alleged behaviour does breach the BCH Bullying, Harassment & Discrimination Policy and the relevant legislation the investigator will advise the Complainant and Respondent in writing that the case will continue.
 - Within five working days of completion of the report, the HR Coordinator will consult with both parties as to the outcome of the investigation to establish possible remedies.
 - Where mediation is agreed, the HR Coordinator in consultation with the CEO will identify a mediator acceptable to both parties. The CEO or nominate will assist the mediator to plan the steps to be taken in attempting to resolve the complaint.
 - The mediator will meet with both parties to discuss possible resolutions and seek to achieve a satisfactory resolution. All parties will be required to sign a "Confidentiality Agreement" agreeing that any statements made in the course of the conciliation process shall remain confidential and without prejudice.
 - Where a resolution is achieved the Complainant and Respondent will sign the resolution agreement as complete and final settlement of the complaint.
 - If the grievance remains unresolved the matter can be referred to an appropriate body such as the Equal Opportunity Commission of Victoria or Human Rights and Equal Opportunities Commission for external mediation, conciliation or arbitration. The result of this step will be accepted by both parties as ending the matter.
 - At any point throughout the process the CEO may determine that the Respondent or Claimant will be stood down with pay.
 - Any complaint involving a criminal offence must be referred to Victoria Police immediately.

Remedies

If it is found that bullying, harassment or discrimination had occurred then disciplinary action of the Respondent may occur.



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If the allegations are not proven and/or the complaint is found to be vexatious or mischievous, the above outcomes may apply to the Complainant.

The outcomes will depend on the severity of the complaint and may include, but are not limited to:

- Mediation session
- Compulsory counselling session, or
- An acknowledgment by the Respondent that their behaviour caused offence even if it was unintentional and an undertaking to modify their behaviour
- Disciplinary action
- Dismissal.

ASSOCIATED DOCUMENTS

- Equal Opportunity Commission Victoria Ph 1800 134 142 or eoc@vicnet.net.au
- WorkSafe Victoria can be contacted on 1800 136 098 or 9641 1555. Guidance notes for Workplace Bullying, harassment or discrimination are available at: www.workcover.vic.gov.au

Equal Opportunity Act 1995 (Vic)
Racial and Religious Tolerance Act 2001
Race Discrimination Act 1975

Sex Discrimination Act 1984
Disability Discrimination Act 1992
Occupational Health and Safety Act 2004
Workplace Relations Act 1996
Workplace Relations (Workchoices) Act 2006
Human Rights and Equal Opportunity Act 1986



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POLICY HISTORY

Adapted From	BCH Bullying Policy & GCHC Discrimination, Bullying and Harassment Policy
Distribution:	All Staff
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