

# Harassment and Bullying Policy



## 1. Purpose and Scope

---

### 1.1 Purpose

This policy should be read in conjunction with the Staff and Volunteer Grievances Policy and the Grievances and Dispute Resolution Policy. It provides guidelines to the Management Committee, Staff, volunteers, and Members of South Perth Learning Centre Inc (**Centre**) so that adequate measures are in place to prevent workplace harassment, sexual harassment, victimisation or bullying from occurring and to provide guidelines for the effective management of any complaints regarding these behaviours.

### 1.2 Scope

All Management Committee members, Staff, volunteers, Members and contractors of the Centre.

## 2 Related Documents

---

The following documents either contain references to this policy or are referred to in this policy:

- Staff and Volunteer Grievances Policy
- Grievances and Dispute Resolution Policy
- Classroom Support Policy

## 3 Relevant Legislation

---

As amended from time to time:

- Australian Human Rights Commission Act 1986
- Age Discrimination Act 2004
- Disability Discrimination Act 1992
- Equal Opportunity Act 1984
- Privacy Act 1988
- Privacy Amendment Act 2012 and 2017
- Racial Discrimination Act 1975
- Sex Discrimination Act 1984
- Workplace Gender Equality Act 2012

## 4 Definitions

---

<b>Staff</b>	All Management Committee members, Staff, volunteers, and contractors of the Centre.
<b>Member</b>	Participant who has paid a membership and/or attends a course.
<b>Workplace Harassment</b>	Refers to behaviour that is unwelcome, results in the person feeling offended, intimidated, or humiliated, is related to any of the grounds in the



Equal Opportunity Act and is reasonable in the circumstances to feel that way.

---

## **Sexual Harassment**

Sexual harassment covers unwelcome behaviours of a sexual nature which cause a person to feel intimidated, humiliated or offended and where it might be determined reasonable for them to feel that way. In the case of sexual harassment, what is important is how the behaviour was perceived, not necessarily how it was intended. These are some of the forms that sexual harassment can take:

- Unwelcome touching or kissing in a sexual way
- Repeated comments or jokes, leering or staring, that are sexually suggestive
- Sexually explicit pictures, objects or reading matter
- Direct or implied sexual propositions, or unwelcome requests for dates
- Intrusive questions about sexual activity
- Abuse of a position of power to try to obtain sexual favours.

Sexual harassment can also include the general climate of a workplace. A poor workplace atmosphere can create an uneasy, intimidating, hostile environment. This can have a negative effect on health, work performance, job satisfaction and productivity.

Sexual harassment can occur between anyone associated with the workplace, in any capacity: employer, employee, volunteer, Member, facilitator or guest.

Sexual harassment should not be confused with sexual attraction. It has nothing to do with mutual attraction or friendship. Humour, friendship, and relationships based on mutual consent are not sexual harassment.

## **Workplace Bullying**

Usually refers to the persistent ill treatment of an individual at work by one or more other persons which causes risks to the health, safety, and welfare of paid and unpaid Staff. If a member of Staff is intimidated, put down or humiliated (sometimes in front of others) on a regular basis, this may constitute workplace bullying. It need not involve physical ill treatment, such as punching and kicking. Most cases of bullying involve such treatment as verbal abuse, 'nit-picking', threats, sarcasm, ostracism, constant criticism, gossip (i.e., bad mouthing to others in organisation) or sabotage of a person's work. It is important to separate a manager's or employer's genuine right to control and monitor work from abuse and bullying. All employers have a right to direct and control how work is done, and managers have a responsibility to monitor workflow and comment on performance.

## **Victimisation**

Treating someone unfairly because they have acted on the rights given them by equal opportunity law, or because they have supported someone else who acted upon those rights – for instance, if a person's job is threatened because they have made a complaint to the Equal Opportunity Commissioner. Victimisation is unlawful and may attract severe financial penalties.



## 5 Background

---

### 5.1 Harassment and bullying are unlawful

It is against our policy and a breach of equal opportunity laws to harass, victimise or bully any Staff under any circumstances including on the grounds of their sex, race, pregnancy, marital status, disability, age, or sexual preferences.

### 5.2 Workforce diversity

We value the diversity of our workforce and respect the differences between Staff members, recognising that each person has individual talents and skills to bring to their job. We believe that all Staff are entitled to work in an environment in which they can enjoy their work and their relationships with their colleagues, free from unwanted harassment of any kind.

### 5.3 Effects of harassment and bullying

Harassment and bullying have the effect of offending, humiliating, or intimidating the person at whom they are directed. These behaviours make the work environment unpleasant and sometimes even hostile. If a person is being harassed or bullied, then their ability to do their work is affected. They often become stressed and suffer health problems as a result.

### 5.4 Unintended consequences

Harassment can often be the result of behaviour which is not intended to offend or harm, such as jokes of unwanted attention. The fact that harassment is not intended does not mean that it is not unlawful. The differences between people should be acknowledged and respected – never ridiculed.

## 6 Policy

---

### 6.1 Approach to harassment and bullying

We will not tolerate harassment or bullying of any kind at the Centre. We will take steps to ensure that Staff are aware that harassment and bullying are unacceptable.

### 6.2 Legal responsibility

We have a legal responsibility to ensure that harassment does not happen in our workplace. If it does occur, we will take complaints of harassment seriously.

### 6.3 Operational Responsibility

The coordinator / manager has day-to-day responsibility for implementing this policy.

### 6.4 Approach to complaints

We will investigate complaints in a sympathetic, fair and confidential manner. We will take action to make sure that the harassment stops. We will issue warnings or take disciplinary action where appropriate when harassment or bullying has occurred. We will not victimise or treat Staff unfairly for making a harassment complaint.



## 7 General Guidelines

---

If harassment or bullying occurs, and the issue is not able to be self-managed as outlined in 8.1 below, the following procedure has been written for making and dealing with complaints related to this issue.

The coordinator / manager is responsible for the prompt, impartial, serious, and sensitive implementation, and ongoing review of this procedure.

<b>Response</b>	<b>Measure</b>
<b>Act promptly</b>	Allegations should be responded to quickly, reasonably and within two (2) business days. Relevant parties should be advised of how long it will likely take to respond to the allegation and should be kept informed of the progress to provide reassurance the allegation has not been forgotten or ignored.
<b>Treat all matters seriously</b>	All allegations should be taken seriously and assessed on their merits and facts.
<b>Maintain confidentiality</b>	The confidentiality of all parties involved should be maintained. Details of the matter should only be known by those directly concerned.
<b>Ensure procedural fairness</b>	<p>The person who is alleged to have perpetrated the bullying behaviour should be treated as innocent unless the allegations are proven to be true. Allegations must be put to the person they are made against, and they must be given a chance to explain his or her version of events.</p> <p>The opportunity to have decisions reviewed i.e., the right to appeal, should be explained to all parties.</p>
<b>Be neutral</b>	Impartiality towards everyone involved is critical. This includes the way people are treated throughout the process. The person responding to the report should not have been directly involved and they should also avoid personal or professional bias.
<b>Support all parties</b>	Once a report has been made, the parties involved should be told what support is available, for example employee assistance programs, and allowed a support person to be present at interviews or meetings e.g. health and safety representative, union representative or work colleague.
<b>Do not victimise</b>	It is important to ensure anyone who reports workplace bullying is not victimised for doing so. The person accused of workplace bullying and witnesses should also be protected from victimisation.
<b>Communicate process and outcomes</b>	All parties should be informed of the process, how long it will take and what they can expect will happen during and at the end of the process. Should the process be delayed for any reason, all parties should be made aware of the delay and advised when the process is expected to resume. Finally, reasons for actions that have been taken or not taken should be explained to the parties.

---



---

<b>Keep records</b>	The following should be recorded: <ul style="list-style-type: none"><li>• the person who made the report</li><li>• when the report was made</li><li>• to whom the report was made</li><li>• the details of the issue reported</li><li>• action taken to respond to the issue</li><li>• any further action required – what, when and by whom.</li><li>• Records should also be made of conversations, meetings and interviews detailing who was present and the agreed outcomes</li></ul>
---------------------	--

---

## 8 Procedures

---

### 8.1 Self-management of the situation

A person may choose to resolve the issues by self-managing the situation. This usually involves telling the other person that the unreasonable behaviour is not welcome and asking for it to stop.

If an individual does not feel safe or confident with approaching the other person, they can seek the assistance of the coordinator / manager or Chair of the Management Committee.

### 8.2 Seek assistance

When a Staff member or volunteer has made an allegation of workplace bullying, a prompt response is required.

Responses to workplace bullying will vary depending on the situation and the number of parties involved.

### 8.3 Responding to Workplace Bullying

Staff are encouraged to consider each of these options:

**Step 1:** When a member of Staff believes he/she is being subjected to bullying or harassment, he/she is advised, if practical, to personally approach (or write to) the person/s responsible, telling him/her that the behaviour is offensive and asking for it to cease immediately.

**Step 2:** If the behaviour does not cease (or if the person being harassed feels unable to approach the harasser), it may be appropriate for him/her to ask someone to assist and intervene. This should be the coordinator / manager. If the coordinator / manager is the harasser, the person being harassed should approach the Chair of the Management Committee. This person may intervene with the harasser on behalf of the complainant.

**Step 3:** Formal Complaint: This option should be used if Steps 1 and 2 do not achieve the desired outcome, or if the offensive behaviour warrants disciplinary action. (See Staff and Volunteer Grievances Policy).

The coordinator / manager will support the person being harassed in completing a grievance record that details the complaint, the process to date, actions to be taken and outcomes. The record must be signed by the harasser, the person being harassed and the Chair of the Management Committee.

If the coordinator / manager is the harasser, the person being harassed should approach the Chair of the Management Committee.



In both cases the Management Committee will be notified of the outcomes.

No action will be taken without the knowledge or consent of the person making the complaint.

## 8.4 Support for the Complainant

At all stages of this procedure the complainant can be supported by the person of his/her choice.

While the Centre would prefer to deal with the complaint internally in the first instance, and is committed to doing so efficiently and sensitively, Staff have the right, at any stage of the procedure, to contact:

- the Equal Opportunity Commission
- the Federal Human Rights and Equal Opportunity Commission or
- the Australian Industrial Relations Commission

## 8.5 Resolution of Complaints

<b>Agreement</b>	Many complaints can be settled by agreement between the people involved.
<b>Not enough evidence to act</b>	If there is not enough evidence to decide whether the matter(s) alleged happened, no disciplinary action will be taken. Instead, the decision may be to keep a closer watch on the people involved, consider wider Staff education or training on the policy or standard involved.
<b>Documentation</b>	No records or notes will go on a Staff file. The contact person will write a confidential file note summarising the discussions and the action agreed on. The person who handled the complaint will write a confidential report. This report will be filed in a confidential complaint filing system. Only the EO will have access to this, and only when necessary.
<b>Disciplinary action</b>	If the person handling the complaint decides that there has been a breach of Centre harassment or bullying policies or standards, the person, or people responsible for the breach may be disciplined.  If a complaint is made mischievously (for example, it consists of lies), disciplinary action may be taken. Making untrue allegations about someone else could also lead to legal action for defamation (damage to reputation).
<b>Level of Disciplinary Action</b>	The level of discipline will depend on the seriousness of the breach, whether it was done intentionally or maliciously, if there have been previous official warnings about this type of breach given to the person/people involved, whether there are any circumstances (known as mitigating circumstances) that mean disciplinary action should not be taken or serious disciplinary action should not be taken.
<b>Range of Disciplinary Action</b>	Discipline could involve one or more of the following: a written apology, counselling, an official warning, or dismissal.
<b>Documentation</b>	A record of the complaint and the resulting disciplinary action will be placed on the Staff file of anyone who is disciplined. The complaint handler(s) will also send all their notes and a copy of the record of the complaint to the person in charge of the confidential complaint filing system.



## 8.6 Appeals

The person who handles an appeal will be more senior in the organisation than the person who first handled the complaint, for example the Chair. They will generally rehear the complaint. This means they may go through the same steps as the person who originally handled the complaint. They may also decide to interview more witnesses if they think those extra witnesses will be able to help.

## 8.7 Result of an Appeal

The person who handles the appeal may confirm the original decision or overturn it. If they believe the original complaint handler mishandled the complaint in a way that breaches this complaint procedure, they may recommend disciplinary action against that person.

## 9 Document History

---

Document name:			
Version number	Version date	Approved by	Description of changes
1.0	16 Jan 2019	Management Committee	Adopted
2.0	22 June 2021	Management Committee	Revised for relevancy and clarity.

## 10 Approval

---

<b>Name</b>	Clementine Kohler
<b>Position</b>	Management Committee, Chairperson
<b>Date</b>	22 June 2021