



# Workplace Behaviour Policy

<b>Policy number</b>	HR8	Version 2.0
<b>Coverage</b>	Staff, Contractors and Other Persons at the Workplace	
<b>Start Date</b>	January 2017	
<b>Author</b>	HR Coordinator	
<b>Approved by</b>	Management	
<b>Date of review</b>	July 2019	
<b>Expiry date</b>	July 2022	

---

## 1 PURPOSE

The aims of this Policy are as far as is reasonably practicable to:

- (a) ensure that Staff, Contractors and Other People at the School (including parents and visitors) understand their obligations and do not engage in behaviour in breach of this Policy;
- (b) ensure that School requirements (e.g. recruitment, remuneration, promotion and access to training and development) are determined on the basis of relevant skills, experience, qualifications, knowledge, aptitude and the potential for future development of the individual and is reflected in policies and procedures that relate to Staff and their employment or engagement;
- (c) confirm expectations regarding appropriate behaviours and that the School will not tolerate behaviour in breach of this Policy;
- (d) confirm that breaches of this Policy for discrimination, adverse action, harassment, sexual harassment, bullying, victimisation, vilification and violence may also amount to breaches under the Applicable Laws; and
- (e) provide a broad, overarching Policy that incorporates or overlaps some elements of other policies.

---

## 2 COVERAGE

This Policy covers and applies to Staff, Contractors and Other People at the School in relation to:

- (a) behaviour at the School;
- (b) the performance of work for or in connection with the School; and
- (c) conduct outside the School or working hours if the acts or omissions:
  - (i) are likely to cause serious damage to the relationship between the School and Staff, Contractors, parents or visitors of the School; or
  - (ii) are incompatible with a Staff member's or Contractor's duty to the School or employment relationship or engagement; or
  - (iii) damage or are likely to damage the School's interests or reputation.

---

### **3 RESPONSIBILITIES**

- (a) Staff, Contractors and Other Persons at the School are required to Staff, Contractors and Other People at the School must not:
  - (i) unlawfully discriminate against other Staff or Contractors;
  - (ii) engage in unlawful adverse action;
  - (iii) harass other Staff, Contractors or Other People at the School;
  - (iv) sexually harass other Staff, Contractors or Other People at the School;
  - (v) bully other Staff, Contractors or Other People at the School;
  - (vi) victimise other Staff, Contractors, or Other People at the School;
  - (vii) vilify Staff, Contractors, or Other People at the School;
  - (viii) engage in workplace violence; or
  - (ix) engage in inappropriate workplace behaviour.
- (b) Staff, Contractors and Other People at the School are required to utilise the Grievance, Conflict and Complaint Policy if they reasonably suspect Staff, Contractors or Other People at the School have breached this policy. However, complaints which are vexatious, false, frivolous or otherwise not made in good faith or with a reasonable basis against another person will constitute a breach of this Policy.

---

### **4 DISCRIMINATION**

#### **4.1 What is discrimination?**

- (a) Discrimination is behaviour that favours one particular individual or group over others based on an attribute, whether known, imputed or assumed and can be either direct or indirect. Discrimination at the School can occur (by way of example):

- (i) when determining who should be offered work;
  - (ii) in the terms and conditions of work that is offered;
  - (iii) in failing or refusing to offer work;
  - (iv) in failing or refusing to grant, or limiting, access to opportunities for promotion, training or other benefit to a Staff member or Contractor;
  - (v) in dismissing a Staff member or Contractor; and
  - (vi) by treating a Staff member or Contractor otherwise less favourably.
- (b) There may be genuine occupational reasons based on the inherent requirements of the role that means discrimination is not unlawful.
- (c) For example, it will not be unlawful to terminate employment if:
- (i) disability prevents a Staff member from being able to perform the inherent requirements of their position; or
  - (ii) performance of the inherent requirements would require services, facilities or reasonable adjustments that would impose an unjustifiable hardship on the School.

#### **4.2 What is direct discrimination?**

- (a) Direct discrimination is where an individual or group is treated less favourably due to a particular attribute or personal characteristic or a characteristic imputed to that attribute. For example, if the School decided:
- (i) not to employ or promote a person because of their:
    - (A) nationality;
    - (B) sexuality;
    - (C) pregnancy; or
  - (b) to terminate a Staff member because they took personal leave (because disability includes illness and is a protected attribute), carer's leave or parental leave (because family responsibilities is a protected attribute).
  - (c) Direct discrimination, under an Applicable Law, is unlawful.

#### **4.3 What is indirect discrimination?**

- (a) Indirect discrimination occurs if a person imposes a condition, requirement or practice which is unreasonable in the circumstances (even if it appears to be fair and neutral) and has the effect of disadvantaging a member of a group of people who:

- (i) share, or are believed to share, a prescribed attribute; or
  - (ii) share, or are believed to share, any of the characteristics imputed to that attribute,  
more than a person who is not a member of that group.
- (b) For indirect discrimination to take place, it is not necessary that the person who discriminates is aware that the condition, requirement or practice disadvantages the group of people.
- (c) For example:
- (i) offering training opportunities to staff members only at limited and rigid times which prevented staff with parental responsibilities from attending the training;
  - (ii) not reasonably providing somewhere for a breast-feeding Staff member or Contractor to express milk while at work; or
  - (iii) not providing reasonable equipment to allow a Staff member or Contractor with a back injury to stand and still do computer work.

#### **4.4 What are the protected attributes or personal characteristics?**

Direct or indirect discrimination within the School based on any of the following attributes or personal characteristics will breach this Policy:

- (a) race;
- (b) age;
- (c) sexual orientation;
- (d) lawful sexual activity;
- (e) gender;
- (f) gender identity;
- (g) intersex;
- (h) marital status;
- (i) relationship status;
- (j) pregnancy;
- (k) breastfeeding;
- (l) parental status;
- (m) family responsibilities;
- (n) disability;
- (o) industrial activity;
- (p) political belief or affiliation;
- (q) political activity;

- (r) religious belief or affiliation;
- (s) religious activity;
- (t) irrelevant criminal record;
- (u) irrelevant medical record;
- (v) association with a person who has, or is believed to have, any of these attributes.

---

## **5 ADVERSE ACTION**

### **5.1 What is adverse action?**

Unlawful adverse action can occur where a person engages in adverse action (or threatens, organises or coerces others to take adverse action) against a person because that person:

- (a) has a workplace right (or has exercised or proposed exercising their workplace right or not done so or to prevent a Staff member or Contractor from doing so);
- (b) has a relevant attribute; or
- (c) engages (has engaged, proposes to engage or not to engage) in industrial activity or, is (or is not) an officer or member of an industrial association.

### **5.2 Types of adverse action**

- (a) Dismissal or termination of contract (e.g. terminating employment or a Contractor's services);
- (b) Injuring the Staff member or Contractor in relation to their employment or terms and conditions of contract (e.g. offering a salary or fee for services that is less than would otherwise be offered);
- (c) Altering the position of the Staff member or Contractor to their prejudice (e.g. removing status or areas of responsibility from a Staff member or providing a damaging recommendation in relation to a contractor to other service users); or
- (d) Discriminating between a Staff member or Contractor and other Staff or Contractors and other prospective Staff or Contractors (e.g. preferring applications for annual leave from a non-union member or using contractors with non-union enterprise agreements); and
- (e) A Staff member or Union takes industrial action against the School (e.g. stop work meeting).

### **5.3 Types of workplace rights, relevant attributes or industrial activity**

#### *Workplace Rights*

- (a) An entitlement under Industrial Instrument or Applicable Laws (e.g. entitlement to

make a worker's compensation claim).

- (b) A role or responsibility under Applicable Laws or an Industrial Instrument (e.g. to act as a bargaining representative).
- (c) Ability to initiate or participate in a process or proceedings under Applicable Laws or an Industrial Instrument (e.g. making a request for flexible working arrangements or participating in a consultation process regarding redeployment in a redundancy situation).
- (d) Ability to make a complaint or inquiry to seek compliance with Applicable Laws or an Industrial Instrument or generally in relation to a person's employment (e.g. making a complaint to the Anti-Discrimination Commissioner or making an inquiry about their classification or salary level).
- (e) Can initiate or participate in a process or proceeding under a workplace law or enterprise agreement (e.g. making an individual flexibility arrangement, appointing a bargaining representative or acting as a witness for another Staff member in a Fair Work Commission hearing).

*Relevant Attributes*

- (f) Race, colour, sex, sexual preference, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

*Industrial Activity*

- (g) Is or is not an officer or member of an industrial association.
- (h) Engages or does not engage in industrial activity (e.g. promoting, encouraging or participating in an activity on behalf of an industrial association such as an on-site meeting).

---

## **6 WORKPLACE HARASSMENT**

### **6.1 What is workplace harassment?**

Workplace harassment will breach this Policy and will not be tolerated at the School.

- (a) Workplace harassment is any conduct which:
  - (i) offends;
  - (ii) humiliates;
  - (iii) intimidates;
  - (iv) insults; or

(v) ridicules,

another person on the basis of protected attributes in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated, intimidated, insulted or ridiculed.

(b) Workplace harassment can be a one-off occurrence and a specific intent or motive is not necessary.

(c) Workplace harassment, under an Applicable Law, is unlawful.

## **6.2 What are the protected attributes for workplace harassment?**

(a) race;

(b) age;

(c) sexual orientation;

(d) lawful sexual activity;

(e) gender;

(f) gender identity;

(g) intersex;

(h) marital status;

(i) relationship status;

(j) pregnancy;

(k) breastfeeding;

(l) parental status;

(m) family responsibilities; or

(n) disability.

## **6.3 What are examples of workplace harassment?**

Examples of workplace harassment include:

(a) telling a joke about a homosexual person which may offend someone who is homosexual;

(b) sending an email to workmates ridiculing a colleague because they have taken carer's leave to look after a sick child which may be humiliating and offensive;

(c) putting a sign on the door of a room where a Staff member or Contractor is

expressing breast milk unnecessarily advertising the activity the Staff member or Contractor is engaging in which may be humiliating;

- (d) telling a Staff member or Contractor who is pregnant that they are getting fat or must be having twins which is offensive; or
- (e) telling a Staff member she is 'just a young girl and could not be expected to cope with a difficult class'.

---

## **7 SEXUAL HARASSMENT**

### **7.1 What is sexual harassment?**

- (a) Sexual harassment is any unwanted or unwelcome conduct which:
  - (i) is of a sexual nature in that there is a sexual element, overtone or implication, which may not in isolation appear to be sexual in nature, but may become so because of the surrounding circumstances (e.g. unsolicited act of physical contact of a sexual nature, unwelcome sexual advance or request for sexual favours, unwelcome gesture, action or comment of a sexual nature); and
  - (ii) a reasonable person having regard to all the circumstances would have anticipated that the other person would be offended, humiliated, intimidated, insulted or ridiculed.
- (b) Sexual harassment can be a one-off occurrence and a specific intent or motive is not necessary.
- (c) Sexual harassment, under an Applicable Law, is unlawful.

### **7.2 What are examples of sexual harassment?**

- (a) Offensive or sexually orientated email or text messages, voice mail messages, screen savers (words and images), telephone calls;
- (b) Deliberate and unnecessary physical contact such as patting, pinching, fondling or deliberately brushing against another body, attempts at kissing;
- (c) Constant requests for drinks or dates, especially after prior refusal;
- (d) Request for sexual favours, gestures or body movements of a sexual or intimidating nature;
- (e) Crude or sexually orientated jokes, comments and suggestions; or

Innuendo, including sexually provocative remarks, suggestive or derogative comments about a person's physical appearance, inferences of sexual morality or



tales of sexual performance.

---

## 8 WORKPLACE BULLYING

### 8.1 What is bullying?

- (a) Bullying is repeated, unreasonable behaviour directed towards a Staff member or Contractor or a group of Staff or Contractor (or Other Persons at the School), that creates a risk to health and safety.
- (b) **'Repeated behaviour'** refers to the persistent nature of the behaviour and can refer to a range of behaviours over time.
- (c) **'Unreasonable behaviour'** means behaviour that a reasonable person (i.e. objective test), having regard for the circumstances, would see as unreasonable (e.g. victimising, humiliating, undermining or threatening).
- (d) **'Risk to health and safety'** can refer to physical or psychological injury that may occur as a result of the repeated, unreasonable behaviour.
- (e) Bullying, under an Applicable Law, is unlawful.

### 8.2 How does bullying occur?

Workplace bullying can be:

- (a) direct (obvious) or indirect (subtle);
- (b) intended or unintended; or
- (c) upwards, downwards or sideways.

### 8.3 What is direct or indirect bullying?

- (a) Bullying can involve many different forms of behaviour and can occur face-to-face, over the phone, via email, instant or text messaging or using social media technologies.
- (b) Examples of potential *direct* bullying may include:
  - (i) aggressive and abusive or threatening language;
  - (ii) yelling and invading personal space;
  - (iii) finger pointing, eye rolling and scowling;
  - (iv) inappropriate emails containing unjustified criticism delivered bluntly; and
  - (v) delivering negative feedback in front of co-workers.
- (c) Examples of potential *indirect* bullying may include:

- (i) spreading rumours or lies;
- (ii) displaying degrading or offensive material at the School;
- (iii) making abusive, belittling, derogatory or insulting comments not in the presence of the person to whom the comments relate;
- (iv) deliberately excluding, isolating or marginalising a person;
- (v) deliberately withholding information that is vital to do a job;
- (vi) deliberately setting unrealistic deadlines and tasks that are unreasonably above or below a person's skill or experience; and
- (vii) deliberately changing work arrangements to cause stress.

#### 8.4 What is intentional or unintentional bullying?

- (a) Bullying can be intentional, where the actions are intended to humiliate, offend, intimidate or distress, whether or not the behaviour did have that effect. Indirect bullying will often occur intentionally.
- (b) Bullying can also be unintentional, where actions which, although not intended to humiliate, offend, intimidate or distress, do so and would be reasonably likely to do so. Sometimes people do not realise that their behaviour can be harmful to others because that is how they would like to be treated. Direct bullying may occur unintentionally where the intentions can even be good but the impact is harmful and the behaviour is not reasonable in the circumstances.

#### 8.5 How can bullying be carried out?

Bullying can be directed at a single person or a group of people and be carried out by one or more persons. Organisationally, bullying can be:

- (a) **downwards** from the Senior Management Team to their team members – for example, a Head of Faculty may have a management style that is unreasonably domineering, they may stand over Staff when they speak to them or speak to Staff rudely or in a demanding or unreasonably loud manner that is disrespectful;
- (b) **sideways** between Staff and/or Contractors – for example, a Staff member unreasonably seeking to enhance their position or sense of power in the School may make a co-worker perform the duties that are less likely to be recognised, blame others for mistakes or fail to pass on instructions from the Senior Management Team so the co-worker makes mistakes; or
- (c) **upwards** from Staff or Contractors to member of the Senior Management Team – for example, a teacher may bully a Head of School to try and unreasonably drive

them from the School or prevent them from effectively doing their job by spreading misinformation or malicious rumours about them or criticising them or complaining about them without justification.

#### **8.6 What's the difference between bullying and harassment/discrimination/adverse action?**

- (a) Discrimination, harassment and adverse action:
  - (i) do not have to be repeated and can be *one off behaviour*; and
  - (ii) must be linked to a protected characteristic (e.g. personal attributes, workplace rights or industrial activity).
- (b) Bullying requires repeated unreasonable behaviour (i.e. cannot be one off behaviour) but there does not need to be any link to protected attributes or protected actions (i.e. it is no defence to treat everyone equally unreasonably).
- (c) It is possible for a person to be bullied, harassed and discriminated against at the same time.

#### **8.7 What is not considered to be bullying?**

- (a) Many things that happen at the School are generally not considered to be bullying, although some experiences can be uncomfortable or involve conflict or something that a person does not like.
- (b) A single incident of unreasonable behaviour is not bullying, although it may have the potential to escalate into bullying. A single incident of unreasonable behaviour can create a risk to health and safety and can be considered to be inappropriate workplace behaviour as distinct from bullying.
- (c) Differences of opinion, performance management, conflicts and personality clashes do happen in any workplace but do not, without more, amount to bullying.
- (d) Reasonable management action, which is carried out in a reasonable manner is not bullying.

#### **8.8 Workplace conflict is not bullying**

- (a) Workplace conflict of itself does not amount to bullying.
- (b) Not all conflict is negative nor does it always pose a risk to health and safety. When conflict is at a low level and task based, it can generate debate and lead to new ideas and innovative solutions. For example, collaborating on a project requires a robust exchange of ideas to be effective.
- (c) Conflict may be negative and undesirable but still not amount to bullying or even

inappropriate behaviour. For example, Staff or Contractors may have a 'personality clash' and not like each other but still behave in a professional and respectful way to each other.

## **8.9 Reasonable management action carried out in a reasonable manner is not bullying**

- (a) Reasonable management action (i.e. 'what') carried out in a reasonable manner (i.e. 'how') is not bullying. The School and members of the Senior Management Team have a right, and are expected to, direct the way work is carried out and to monitor and give feedback on performance.
- (b) Examples of reasonable management action relating to *performance management* include:
  - (i) setting reasonable performance goals, standards and deadlines in consultation with Staff or Contractors and after considering their respective skills and experience;
  - (ii) allocating reasonable work to a Staff member or Contractor in a transparent way;
  - (iii) deciding not to select a Staff member or Contractor for promotion, following a fair and documented process;
  - (iv) informing a Staff member or Contractor about unsatisfactory or unacceptable work performance in a constructive way and in accordance with policies and procedures;
  - (v) informing a Staff member or Contractor about unacceptable conduct or behaviour in accordance with policies and procedures; and
- (c) Examples of reasonable management action relating to operational matters include:
  - (i) assigning a particular class or grade to a teacher;
  - (ii) transfers a Staff member from one department to another;
  - (iii) implementing organisational changes or restructuring; and
  - (iv) providing access to training or employment benefits based on genuine operational requirements and merit.

---

## **9 VICTIMISATION**

### **9.1 What is victimisation?**

- (a) Victimisation occurs when a person subjects, or threatens to subject, another Staff

member or an associate of that other Staff, or Contractor or Other Person at the School or an associate of that person to any detriment because they:

- (i) made or intend to make a complaint or Grievance against them;
- (ii) gave, or intend to give, evidence or information in connection with any proceedings;
- (iii) allege or intend to allege that any person has committed an act which would amount to a contravention of Applicable Laws;
- (iv) refused or intend to refuse to do anything that would amount to a contravention of Applicable Laws; or
- (v) have reasonably reported a breach of this Policy or utilised the Grievance, Conflict and Complaint Resolution Policy.

(b) Victimisation, under an Applicable Law, is unlawful.

**9.2 What are some examples of the type of activities that could in the above circumstances amount to victimisation?**

- (a) Refusing to employ another person;
- (b) Terminating or threatening to terminate employment;
- (c) Prejudicing or threatening to prejudice a person in their employment (refusing to provide a favourable reference);
- (d) Intimidating or coercing (excluding from discussions);
- (e) Imposing any pecuniary penalty or other penalty (withholding wages); or
- (f) Taking disciplinary action (e.g. giving a Staff member a warning).

---

**10 VILIFICATION**

**10.1 What is vilification?**

Vilification will breach this Policy and will not be tolerated at the School.

- (a) Vilification is conduct that incites physical harm, hatred, serious contempt or severe ridicule towards a Staff member, Contractor or Other People at the School on the basis of race, sexuality, disability or religion. It can take many forms, including hate-speech, graffiti, websites, and distribution of propaganda or other forms of offensive literature.
- (b) Vilification is conduct which occurs in a public place. The School is a public place and discussions or jokes in the School that relate to race, sexuality, disability or

religion could amount to vilification.

## **10.2 What are examples of vilification?**

- (a) Speaking about a person's race, disability, sexual orientation, religious belief in a way that could make other people hate or ridicule them;
- (b) Publishing claims that a racial, disabled, sexually orientated or religious group is involved in serious crimes without any proof;
- (c) Encouraging violence against people who have a particular race, disability, sexual orientation, religious belief, or damaging their property; or
- (d) Encouraging people to hate a person or group with a particular race, disability, sexual orientation, religious belief, using flyers, stickers, posters, a speech or publication, or using websites or email.

---

## **11 WORKPLACE VIOLENCE**

### **11.1 What is workplace violence?**

- (a) Workplace violence occurs when a Staff member, Contractor or Other Person at the School abuses, threatens or assaults another Staff member, Contractor or Other Person at the School, in circumstances relating to their work or the School. Unlike bullying, an action does not need to be repeated.
- (b) Threats to harm someone, violence and damage to property are breaches of Applicable Laws that should be referred to the Police, and any other appropriate authority.
- (c) Violence, under an Applicable Law, is unlawful.

### **11.2 What are examples of workplace violence?**

- (a) Threatening to kill or hurt a person or their family;
- (b) Assault; or
- (c) Throwing objects at another person.

### **11.3 Response to violence**

- (a) The School has a zero tolerance approach to violence.
- (b) Any acts of violence may create an unreasonable risk to health and safety to others and may pose an unreasonable risk to the School's reputation.
- (c) The School considers that violence is not a standard that is acceptable for any person to maintain an ongoing level of trust and confidence with the School.
- (d) Notwithstanding all of the above, joking about engaging in violence (with or without

intent) or making a threat of violence against someone or their property even if it is intended in jest is also unacceptable.

---

## **12 INAPPROPRIATE WORKPLACE BEHAVIOUR**

### **12.1 What is inappropriate workplace behaviour?**

Inappropriate workplace behaviour will breach this Policy and will not be tolerated at the School.

- (a) Inappropriate workplace behaviour is any behaviour by Staff, Contractors or Other People at the School that the School reasonably considers is not appropriate behaviour or is unacceptable in the School. It is behaviour inconsistent with the School's policies and procedures, expectations and way of doing things, which means it will vary from case to case.
- (b) Unreasonable behaviour (as is required with bullying) will also amount to inappropriate workplace behaviour. However, behaviour does not have to be unreasonable in the circumstances to be considered inappropriate workplace behaviour. For example, 'over sharing' of personal information by a member of the Senior Management Team with a direct report which may be welcomed by the Staff member in the circumstances but still be considered inappropriate workplace behaviour by the School for not meeting the communicated expectations of a professional member of the Senior Management Team.
- (c) Unreasonable behaviour may include behaviour where a Staff member has not reasonably or genuinely committed to resolving conflict in the workplace. For example, a Staff member may react unreasonably by shouting at another Staff member during a period of high stress which is inappropriate but if they gave a genuine unqualified apology and commitment to changing their behaviours in a timely fashion it would be inappropriate for a Staff member who had felt intimidated by their behaviour to refuse to accept the apology and demand their employment be terminated or refuse to work with them in future.
- (d) Inappropriate workplace behaviour may also fit into any of the categories of unlawful behaviour under this Policy. Even if it does not, it still amounts to behaviour in breach of this Policy. Therefore, if you are unsure as to what the standards are, ask a member of the Senior Management Team or Human Resources or other appropriate person at the School.

### **12.2 What are examples of inappropriate workplace behaviour?**

- (a) Treating people rudely, disrespectfully or without dignity are examples of what is

considered inappropriate workplace behaviour.

- (b) At the 'high' or serious end of the scale, it is behaviour that may also constitute serious misconduct at common law, such as stealing.
- (c) At the low or 'less serious' end of the scale, it may be behaviour that is inappropriate but not unreasonable (e.g. Staff privately makes crude jokes with another Staff member at the School which are based on protected attributes). This may not be unlawful in the circumstances in that the Staff welcome the behaviour and no-one overheard or was likely to but is still considered inappropriate workplace behaviour because it amounts to poor judgment and is below what is expected of a Staff member of the School.

---

#### **4 INTERPRETATION AND APPLICATION**

This Policy must be read in conjunction with *the Application of Workplace Behaviours Policies and Procedures* which provides the meaning of defined (capitalised) terms and sets out how this Policy is to be applied.