

DISCRIMINATION, BULLYING AND HARASSMENT POLICY

PURPOSE

DMCC is committed to providing a service free from discrimination, bullying and harassment. Behaviour that constitutes discrimination, bullying or harassment will not be tolerated and will lead to action being taken, which may include dismissal if the offender is a staff member.

This policy articulates the actions and procedures that this support objective.

DEFINITIONS

- **Direct discrimination** occurs when someone is treated unfavourably because of a personal characteristic that is protected under Victorian law.
- **Indirect Discrimination** occurs when a rule seems neutral, but has a discriminatory impact on certain people. For example a minimum height requirement of 6 foot for a particular job might be applied equally to men and women, but would indirectly discriminate on the basis of sex, as women tend to be shorter than men.
- **Sexual harassment** includes unwelcome conduct of a sexual nature in circumstances in which it could reasonably be expected to make a person feel offended, humiliated or intimidated a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would be offended, humiliated or intimidated.
- **Bullying** may include behaviour that creates a risk to health and safety e.g. physical and/or verbal abuse, excluding or isolating individuals; or giving them impossible tasks.

POLICY

Responsibility lies with every employee/volunteer to ensure that such behaviour does not occur.

No employee or volunteer should subject any other employee, volunteer, service user or visitor to any form of discrimination, bullying or harassment. Employees, volunteers service users and volunteers should not be subject to discrimination, bullying or harassment from service users or members of the community.

Depending upon the severity of the case a breach of this policy will result in disciplinary action which may include an apology, counselling, dismissal, exclusion from DMCC programs and events or other forms of action deemed appropriate.

DMCC strongly encourages any employee, volunteer or service user who feels they have been discriminated against, bullied or harassed to take immediate action, preferably by making it clear to the offender that such behaviour is unwelcome and offensive. Alternatively, or in addition, they may follow the procedures for reporting the behaviour.

Any reports of discrimination, bullying or harassment will be treated seriously, promptly and with sensitivity. Such reports will be treated as completely confidential up to the point where a formal or informal complaint is lodged against a particular person, at which point that person must be notified under the rules of natural justice.

Complainants have the right to be engaged in determining how to have a complaint treated, to have support or representation throughout the process, and the option to discontinue a complaint at any stage of the process.

The alleged offender also has the right to have support or representation during any investigation, as well as the right to respond fully to any formal allegations made. There will be no presumptions of guilt and no determination made until a full investigation has been completed.

No employee or volunteer will be treated unfairly as a result of raising an issue or making a complaint advances. Disciplinary action may be taken against anyone who victimises or retaliates against a person who has made a complaint, or against any employee or volunteer who has been alleged to be an offender.

All employees and volunteers have the right to seek the assistance of the relevant tribunal or legislative body to assist them in the resolution of any concerns.

PROCEDURE

To make a complaint

If a person believes you are being, or have been, discriminated against, sexually harassed or bullied, they should:

1. If they feel comfortable, approach the offender and tell them that the behaviour is offensive, unwelcome and against business policy and that they should stop.
2. If they do not feel comfortable enough to approach the offender directly, or if the behaviour continues, they should raise the matter with the Coordinator or Chair CoM and keep a written record of the incident(s).
3. Employees, volunteers or program participants may also lodge a complaint with the Victorian Equal Opportunity and Human Rights Commission, the Australian Human Rights Commission, or take action under the *Fair Work Act 2009*.

To receive a complaint

When the Chair/Coordinator receives a complaint of discrimination, bullying or harassment (or becomes aware of an incident that may contravene this policy) they should:

1. Listen to the complaint seriously and treat the complaint confidentially. Allow the complainant to bring another person to any interview if they choose to.
2. Ask the complainant for the full story, including what happened, step by step.
3. Take notes, using the complainant's own words.
4. Ask the complainant to check any notes to ensure your record of the conversation is accurate.

5. Explain and agree on the next action with the complainant.
6. If investigation is not requested (and the Chair/Coordinator is satisfied that the conduct complained is not in breach of policies) then they should act promptly to address the matter with the offender.

To investigate a complaint

When investigation is required the Chair/Coordinator should:

1. Do not assume guilt
 2. Interview all directly concerned, separately
 3. Interview witnesses, separately
 4. Interview the alleged harasser, separately and confidentially and let the alleged harasser know exactly of what they are being accused. Give them a chance to respond to the accusation. Make it clear they do not have to answer any questions but that a decision will be made regardless.
1. Listen carefully and keep records of interviews and the investigation. Ensure confidentiality, minimise disclosure
 2. Decide on appropriate action based on investigation and evidence collected
 3. Discuss any outcomes affecting the complainant with them to make sure, where appropriate, that you meet their needs.

Possible outcomes

If after investigation it is found that the complaint is justified the following actions may be implemented:

- disciplinary action to be taken against the perpetrator (counselling, warning or dismissal)
- training for the perpetrator or all staff, as appropriate
- counselling for the complainant
- an apology (the particulars of such an apology to be agreed between all involved)

Some forms of severe sexual harassment (e.g. sexual assault, stalking, indecent exposure, physical molestation, obscene phone calls) may constitute criminal conduct.

In relation to alleged criminal offences such as rape or sexual assault, the matter must be immediately referred to the police by the complainant. Employees/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.

Related: Incident Report Form