

POLICY/PROCEDURE NAME & REVIEW PROCESS	<h2>EMPLOYEE- BULLYING DISCRIMINATION and HARASSMENT POLICY</h2> <p>This policy and procedure have been created to provide all stakeholders with clear guidelines and transparency to our practices and procedures.</p> <p>We welcome feedback and input from all stakeholders at any time, and this policy is subject to review based on feedback or due date of annual review.</p>
NATIONAL QUALITY STANDARD	QUALITY AREA 4- STAFFING ARRANGEMENTS 4.2 PROFESSIONALISM MANAGEMENT 4.2.1 Professional collaboration 4.2.2 Professional standards
NATIONAL LAW AND REGULATIONS	170-Policies and procedures to be followed 171-Policies and procedures to be kept available 172- Notification of change to policies or procedures
RELATED POLICIES and RECORDS	<ul style="list-style-type: none"> ▪ Child safety and wellbeing policy ▪ Child protection policy – state specific ▪ Code of conduct policy ▪ Complaint statement record ▪ Family code of conduct record ▪ Employee Handbook ▪ Record keeping and retention of records policy. ▪ Psychosocial Policy
SCOPE OF POLICY	This policy applies to all educators, families, management, students, volunteers, and visitors at our service.
AIM OF POLICY	<p>To ensure that our service has strong guidelines, procedures, and practices in place regarding bullying and harassment for all staff. Our aim is to provide a mechanism for staff to raise complaints in regard to discrimination, harassment, racism and bullying without fear of retribution. It also aims to ensure that such complaints are appropriately investigated, that staff receive fair and equitable treatment, and that disciplinary action is taken where appropriate. Our aim is to provide a clear policy, implement the policy, support practices relating to the policy, train staff regarding the policy and maintain and update the compliance of the policy for all our stakeholders.</p> <p>Through the implementation of our policies and procedures, we aim to meet National Law & National Regulations, National Quality Standards, Child Safe Standards and National Principles. We will promote cultural safety for Aboriginal and Torres Strait Islander children, safety for children with disability, and inclusion for children from culturally and linguistically diverse backgrounds.</p>
SERVICE IMPLEMENTATION	<p>Bullying, discrimination and harassment are recognised as psychosocial hazards under Work Health and Safety legislation.</p> <p>Psychosocial Risk Management (Victoria & NSW)</p> <ul style="list-style-type: none"> ▪ Management recognises bullying, discrimination and harassment as psychosocial hazards and is committed to identifying, assessing and controlling and managing psychosocial risks so far as is reasonably practicable, to protect the psychological health and safety of all employees in accordance with applicable Work Health and Safety and Occupational Health and Safety legislation. <p>Management will implement a systematic psychosocial risk management approach, which includes:</p> <ul style="list-style-type: none"> ▪ Identifying psychosocial hazards, including behaviours, systems of work, workplace relationships, and organisational practices that may contribute to bullying, harassment or discrimination. ▪ Assessing the risks associated with identified psychosocial hazards, considering the duration, frequency and severity of exposure. ▪ Implement control measures using the hierarchy of controls, prioritising elimination and minimisation of risks. ▪ Review and monitor controls to ensure effectiveness, particularly following complaints, incidents, organisational change, or staff feedback. <p>Control measures may include, but are not limited to:</p> <ul style="list-style-type: none"> ▪ Clear behavioural expectations and codes of conduct. ▪ Safe workload allocation and role clarity.

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- Supportive supervision and leadership practices.
- Access to complaint procedures and early intervention processes.
- Staff training and education.
- Reasonable workplace adjustments where required.

Consultation with Employees

In accordance with workplace health and safety legislation, management will consult with employees, and Health and Safety Representatives (where applicable), when:

- Identifying psychosocial hazards.
- Assessing risks to psychological health.
- Making decisions about control measures.
- Reviewing the effectiveness of existing controls.
- Proposing changes that may impact psychological health and safety.

Consultation will occur through staff meetings, surveys, one on one discussions, online employee apps and risk assessment planning.

What is Bullying?

- Bullying is an ongoing and deliberate misuse of power in relationships through repeated verbal, physical and/or social behaviour that intends to cause physical, social, and/or psychological harm. Everyone is entitled to a work environment that is free of discrimination, harassment, and bullying.
- A person or group of people repeatedly act unreasonably towards another person, or a group of workers and the behaviour creates a risk to health and safety.

Unreasonable behaviour includes victimising, humiliating, intimidating, or threatening a person.

Examples of bullying include:

- Aggressive, abusive, or offensive language and/or behaviour towards another person, including threats, swearing, shouting, threatening gestures, throwing things, and threatening violence.
- Demeaning remarks, sarcasm and spreading rumours.
- Interfering with personal property or work equipment or withholding information or equipment that a person needs to do their job.
- Constant unreasonable and unconstructive criticism.
- Making inappropriate statements to other people about an individual.
- Patronising behaviours based on assumptions e.g., about their culture, age, skills, knowledge, ability, socioeconomic background, sexual orientation, or gender.
- Deliberate exclusion, isolation, or alienation of a staff member from normal work interaction or work-related events.
- Placing unreasonable or high work demands or alternatively withholding meaningful work from one staff member.

What is not bullying?

Bullying does not include regular conversations with staff that relate to performance coaching and include managing underperformance issues, constructive advice and providing direction on acceptable workplace behaviours.

An employer or manager can:

- Make decisions about poor performance.
- Take disciplinary action.
- Direct and control the way work is carried out.

What is Harassment?

Harassment is any behaviour that:

- Is unwelcome.
- Is offensive, humiliating or intimidating.
- Creates a hostile environment.
- Deliberately targets a person or group because of their personal characteristics such as race, sex, age, disability, including any association with someone who may have harassed another person with such a personal characteristic.

What is Discrimination?

Direct discrimination happens when a person, or a group of people, is treated less favourably than another person or group because of their background or certain personal characteristics. These are referred to as protected attributes:

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Protected attributes are as follows:

- Disability -including past, present, and presumed disability covering the following as referenced under the Anti-Discrimination Act 1977:
- Race -when you are treated less favourably because of your race which includes colour, nationality, descent and ethnic, ethno-religious or national origin.
- Age -when you are treated less favourably because of your age, generally because you are perceived to be too young or too old. Forcing people to retire at any age, as long as they can still do the job, is against the law.
- Sex -when you are treated less favourably because of your sex or a characteristic that relates to persons of that sex. This includes being treated less favourably or harassed or not given the same opportunities because you are pregnant or breastfeeding or because of your marital or domestic status.
- Homosexual -when you are treated unfairly because you are gay or lesbian or someone thinks you are gay or lesbian.
- Carer’s responsibilities - when you are treated less favourably because you are, or people think you are, responsible for caring for or supporting certain defined family members, including your children, stepchildren, spouse, or parents. It also covers certain immediate family members as defined in legislation including adopted children, foster children, a child, or adult for whom you are a guardian and former spouse.
- Marital or domestic status: when you are treated less favourably because of your marital or domestic status, for example because you are single, married, divorced, widowed, married but living separately, or in a de facto relationship.
- Religion- discriminated against based on your religious preference.

Discrimination happens when there is adverse action which means:

An action taken by an employer, employee, contractor, or industrial association, which may be unlawful depending on the reason for the action. For example, dismissing an employee for taking industrial action.

It can include the following: doing, threatening, or organising any of the following:

- Firing an employee for no real reason.
- Disadvantaging an employee in their employment, e.g., not giving an employee legal entitlement such as pay or leave.
- Changing an employee's job to their disadvantage.
- Treating an employee differently than others.
- Not hiring someone based on race etc.
- Offering a potential employee different and unfair terms and conditions for the job compared to other employees.

Direct discrimination is unlawful under federal discrimination laws if the discrimination is based on protected attributes. Discrimination usually occurs in the following circumstances:

- To someone applying for a job as an employee.
- To a new employee who has not started work.
- To an employee at any time during employment.

What isn’t Discrimination?

Adverse actions are not always discrimination. There can be reasons that are not based on personal attributes and therefore are not classed as discrimination.

- Are allowed under state or federal anti-discrimination law.
- Are taken against an employee of a religious institution to avoid harming the organisation's religious beliefs.
- Do not relate to one of the protected attributes.
- Relate to the necessary requirements of the job.

Sexual Harassment

Sexual harassment is against the law, and you have a right to act if it happens to you. You may be able to resolve the situation yourself by pointing out that the discrimination is illegal. Otherwise, ask for assistance from someone you trust or from someone in a responsible position such as your nominated supervisor or approved provider.

You will need to record in a statement what happened, providing details about when, where, who was involved and anything else you think may be relevant.

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If you are unable to resolve the issue you can lodge a complaint. The Human Rights and Equal Opportunity Commission (HREOC) is a federal government agency that promotes awareness of human rights through public education and handles complaints from people under federal antidiscrimination laws that it administers. These laws are:

- The Sex Discrimination Act 1984
- The Disability Discrimination Act 1992
- The Human Rights and Equal Opportunity Commission Act 1986
- The Racial Discrimination Act 1975.

For further information about lodging complaints call 1300 369 711

Sexual harassment is a type of sex discrimination and is the most common cause of complaint under the Sex Discrimination Act. Young women are often vulnerable to sexual harassment at school and in the workplace.

What is sexual harassment?

Sexual harassment is any unwanted or unwelcome sexual behaviour. It has nothing to do with mutual attraction or friendship and lots to do with people “crossing the line.” Sexual harassment does not have to be direct or physical, it may include:

- Unwelcome touching.
- Personal remarks
- Displaying sexual materials.
- Telling jokes of a sexual nature.
- Written or emailed material of a sexual nature.
- Inappropriate gestures.
- Inappropriate leering at a person or body part.
- Making promises or threats in return for sexual favours.
- Persistent questions or insinuations about a person’s private life (i.e., stalking)

Staff should be aware that such behaviour does not have to be directed specifically at them.

Sexual harassment includes behaviour that makes the environment you are working or studying in uncomfortable or threatening in a sexually hostile way.

Each state and territory have a local workplace health and safety body, which regulates and investigates breaches of laws about workplace health and safety, including bullying and harassment.

- Australian Capital Territory: [Work Safe ACT](#)
- New South Wales: [SafeWork NSW](#)
- Northern Territory: [NT WorkSafe](#)
- Queensland: [Workplace Health and Safety Queensland](#)
- South Australia: [SafeWork SA](#)
- Tasmania: [WorkSafe Tasmania](#)
- Victoria: [WorkSafe Victoria](#)
- Western Australia: [WorkSafe WA](#)

Complaint process

In the event of a bullying discrimination or harassment complaint all employees must follow the process as per below. The purpose of this process is to ensure that concerns relating to bullying, discrimination or harassment are raised early, handled sensitively, and addressed promptly in a manner that is fair, confidential, and consistent with legislative obligations.

Early Resolution if applicable

Where appropriate and safe to do so, employees are encouraged to address concerns at an early stage by:

- Raising the issue directly with the person involved in a calm and respectful manner.
- Seeking informal support or advice from the Nominated Supervisor or Approved Provider.
- Early resolution is voluntary and not required where a staff member feels unsafe, uncomfortable, or where the behaviour is serious.

Making an Initial Complaint

If the matter cannot be resolved informally, or if early resolution is not appropriate, an employee may make an initial complaint by:

Reporting the concern to the Nominated Supervisor or Approved Provider as soon as practicable and completing a **Complaint Statement Record**, providing details of:

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- The nature of the concern.
- Dates, times and locations of incidents.
- Persons involved and any witnesses.
- The impact of the behaviour.

Where a complaint cannot be resolved internally, or where the complaint involves the Approved Provider or Nominated Supervisor, employees may seek advice or lodge a complaint with an external authority, including but not limited to:

- The relevant workplace health and safety regulator.
- Fair Work Ombudsman.
- Relevant Anti-Discrimination or Human Rights Commission.

Management will not prevent or discourage any person from exercising their legal right to seek external advice or make a complaint.

Acknowledgement of Complaint

Upon receipt of a complaint, the Nominated Supervisor or Approved Provider will:

- Acknowledge receipt of the complaint within two (2) working days.
- Provide information about the next steps in the process.
- Explain confidentiality expectations and available support options.

Initial Risk and Safety Assessment

An initial assessment will be undertaken to determine:

- Whether there is an immediate risk to health, safety or wellbeing.
- Whether interim measures are required to protect any party, such as:
- Temporary changes to duties or supervision arrangements.

Additional support measures.

- Stand-down on full pay where appropriate.
- This assessment does not determine outcomes and is undertaken solely to ensure safety.

Confidentiality and Support

- All complaints will be managed with sensitivity and discretion. Information will be shared only on a need-to-know basis, except where disclosure is required by law.

Staff involved in a complaint may access:

- Managerial support.
- Employee Assistance or wellbeing supports (where available).
- A support person during meetings or discussions.

Determination of Next Steps

Following the initial assessment, management will determine whether the matter will proceed as one of the following.

- An informal resolution process
- A formal investigation process, in accordance with this policy.
- The complainant will be advised of the proposed approach and timeframes.
- Employees may raise concerns without fear of victimisation or retaliation.
- Anonymous complaints may be accepted and assessed based on available information.
- While anonymous complaints may limit management's ability to investigate fully, they will be taken seriously. They may result in any of the following: Monitoring of workplace behaviour/ Risk assessments/ Preventative or systemic control measures/ Further investigation where additional information becomes available.
- Making a complaint in good faith will not result in disciplinary action.
- False or malicious complaints may be addressed as a separate matter.

Equitable process

Management strictly prohibits victimisation, retaliation, or adverse treatment of any person who:

- Raises a concern or complaint in good faith.
- Participates in an investigation.
- Supports another person making a complaint.

Any form of victimisation or retaliation will be treated as a serious breach of this policy and may result in disciplinary action, up to and including termination of employment.

- Processes will be fair and equitable such as merit-based recruitment and selection processes.
- Fair employment conditions should be in place such as equal staff benefits, staff training for everyone, fair task allocation and flexible work arrangements reviewed fairly.

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- Staff should feel confident to raise issues, make an enquiry or complaint in a reasonable and respectful manner without being victimised.
- All formal complaints will be investigated, promptly and impartially, in accordance with the rules of procedural fairness, in a manner that ensures complainants and witnesses are not victimised in any way and where all parties are kept up to date with progress.
- Staff and management are expected to treat everyone with dignity and respect and ensure that all staff and management conduct themselves in accordance with this policy. Report unlawful behaviour if they have witnessed it and avoid gossip and respect confidentiality if involved in the issue.
- While this policy applies to employee conduct, where bullying, harassment or discrimination poses a risk to children’s safety, wellbeing or dignity, management will respond in accordance with the **Child Safety and Wellbeing Policy, Child Protection Policy**, Child Safe Standards, and mandatory reporting obligations. Any conduct that impacts a child’s safety will be treated as a serious matter and may result in immediate action, including suspension or termination.

Record keeping

- All complaints, investigations, outcomes, and related documentation will be:
- Recorded accurately and objectively.
- Stored securely with restricted access
- Managed in accordance with the **Record Keeping and Retention of Records Policy**.
- Retained for the required legislative period.
- Information will only be disclosed on a need-to-know basis or where required by law.

Each member of the team plays an important role in the implementation of each policies guidelines, and they are outlined as below but not limited to the following:

The Approved Provider

- Has a legal responsibility under Occupational Health and Safety and anti-discrimination law to provide a safe workplace. They have a duty of care for staff health and wellbeing whilst at work. An employer that allows bullying to occur in the workplace is not meeting this responsibility. The management of a service must do everything in their power to support all educators and staff at our service.
- Will ensure that obligations under the Education and Care Services National Law and National Regulations are met.
- Will ensure they take reasonable steps to ensure that the nominated supervisor, educators, staff, and volunteers follow the policy and procedures.
- Will ensure they provide the nominated supervisor, educators, staff and volunteers the documentation to perform their role, follow policy, procedure, and document according to regulatory and service requirements.
- Will ensure that adequate induction process is provided to all staff to ensure they have time to read and understand policies and procedures and seek further information if unsure.
- Will ensure that the nominated supervisor and staff are equipped with ongoing professional development and training they require to comply with this policy.
- Will encourage feedback from stakeholders regarding the policy’s effectiveness, particularly in relation to identifying and responding to child safety concerns.
- Will ensure the policy is kept up to date with current legislation, research, and best practice.

The Nominated Supervisor

- Must take all complaints regarding bullying discrimination and harassment seriously.
- Will ensure an investigation will follow the complaint, and approved provider must be informed. Staff making the complaint should be encouraged to place the complaint in writing on the **complaint statement record**.
- Will inform the approved provider immediately if any complaint is given regarding bullying harassment and discrimination.
- Will ensure an investigation must be completed after receiving the complaint.
- Will ensure that they acknowledge complaints within 2 working days, commence investigation within 5 working days, and aim to finalise investigations within 14–21 days, unless complexity requires an extension. All parties will be kept informed of progress.

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- Will ensure as part of the investigation, you, the staff member against whom the allegations have been made and any witnesses, may be interviewed separately. The respondent to the complaint will be provided with a summary of the allegations made.
- Will depending on the circumstances of the complaint, the person whom the complaint was made against may be stood down from their duties and sent home on full pay during the period when the investigation is being carried out.
- Will if a complaint is found to be unsubstantiated, no further action will be taken. If no further action is to be taken, the reason for this decision will be explained to both parties and management will expect no retributions and confidentiality will be kept.
- Will if complaint is found to be substantiated, then the result could vary from mediation to resolve the issue to disciplinary action or termination depending on the severity of the incident.
- Will adhere to and implement the obligations under the Education and Care Services National Law and National Regulations.
- Will ensure they take reasonable steps to ensure that the educators, staff, and volunteers follow the policy and procedures.
- Will ensure they provide the educators, staff and volunteers the documentation to perform their role, follow policy and procedure and ensure they are checking the documentation according to regulatory and service requirements.
- Will ensure that a rigorous recruitment process is completed, and a thorough induction process is provided to all staff to ensure they have time to read and understand policies and procedures and seek further information if unsure.
- Will ensure that the staff are supported with ongoing professional development and training they require to comply with this policy.
- Will encourage feedback from stakeholders and staff regarding the policy's effectiveness, particularly in relation to identifying and responding to child safety concerns.
- Will ensure the policy is kept up to date with current legislation, research, and best practice.
- Will conduct regular staff meetings to address policy compliance with legislation, policy implementation, changes to policy and or collect feedback for annual review of policy.

Educators

- Must inform the nominated supervisor or approved provider of any complaint regarding bullying harassment or discrimination.
- Where a complaint involves the Nominated Supervisor or Approved Provider, the matter will be escalated to an independent external authority, such as an external HR consultant, Fair Work Ombudsman, SafeWork regulator, or relevant anti-discrimination commission.
- Will be expected that the complaint be made in writing on the service **complaint statement record**.
- Will be expected that all staff adhere to this policy, that they have read and understood the explanations of the guidelines.
- Will not engage in or support any other members to engage in or instigate any form of bullying, discrimination and or harassment.
- Will report any issues immediately to the nominated supervisor and if bullying is coming from nominated supervisor, you will report to approved provider.
- Will abide by the code of conduct policy at all times.
- Will adhere to and implement the obligations under the Education and Care Services National Law and National Regulations.
- Will ensure they take reasonable steps to follow the service policy and procedures and seek advice or further support if unsure.
- Will ensure they complete and document any related records regarding the implementation of this policy and practice requirements of the service.
- Will attend any ongoing professional development, staff meetings and training they require to comply with this policy and practice requirements of the service.
- Will provide feedback to the nominated supervisor or approved provider regarding the policy's effectiveness, particularly in relation to identifying and responding to child safety concerns.
- Will provide feedback regarding policy review when required.

REGULATION IMPLEMENTATION

The following procedures outline and support all stakeholders to understand and implement the regulatory guidelines of this policy.

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<p>In regard to regulation 170- Policies and procedures to be followed.</p>	<p>Approved Provider will</p> <ul style="list-style-type: none"> Ensure that all staff and volunteers are made aware of Regulatory policies and procedures by ensuring that this forms a part of the induction process. Ensure probationary reviews will be conducted once new staff are appointed at the 3- month and 6-month mark to ensure that they are following policy and procedure and to review and revise regulatory policies. Ensure staff meetings will be conducted on a regular basis to allow for review of policy and procedure and further training and revision of procedural practices in relation to policy and procedure. Ensure annual review and revision of policies and procedures will be conducted, and all educators will be given the opportunity for input.
<p>In regard to Regulation 171- Policies and procedures to be kept available.</p>	<p>Approved Provider will</p> <ul style="list-style-type: none"> Ensure that policies and procedures are available to all staff and the location and availability will form a part of the induction process. Ensure policies will be available on request for all staff members to have access when required. Ensure policies will be available when required for staff members to download copies and/or print out if required in order to complete assignments or to form part of their research and/ or update their knowledge. Ensure policies will be available for all stakeholders when requested and when updating.
<p>In regard to Regulation 172- Notification of change to policies or procedures</p>	<p>Approved Provider will</p> <ul style="list-style-type: none"> Ensure staff meetings will be conducted on a regular basis to allow for review of policy and procedure, provide further training and allow for input if required in relation to policy and procedure. Ensure stakeholders will be invited to provide feedback for policies and procedures at any time, not just on annual review but will also be invited to add feedback at review time or after an event that may require change to policy or procedure. Ensure policies and procedures will be emailed or put on display in the foyer for stakeholders to have the ability to provide feedback. Ensure feedback will be considered from stakeholders and educators and may result in a change in policy. Ensure policy and procedure may be changed at any time if there has been an incident in the service that has required a change to be implemented for the safety and health of children and or educators. Ensure in the event of a change to a policy after feedback or a situation that occurs, we will provide 14 days' notice to all stakeholders before the change takes effect.
<p>CONTINUOUS IMPROVEMENT</p>	<p>We are dedicated to the ongoing improvement of our practices and procedures through the following actions:</p> <ul style="list-style-type: none"> Conducting regular reviews and updates of this policy with all stakeholders. Actively seeking feedback from children, families, and staff members. Providing targeted skill development and training for staff when areas for improvement are identified or when gaps in policy and procedure implementation are observed.
<p>IN THE EVENT of a BREACH of POLICY and/or PROCEDURE</p>	<ul style="list-style-type: none"> All employees are required to comply with this policy and all associated procedures. Any alleged breach of a policy or procedure will be documented and further investigated by management. If an employee is deemed to be breaching policy and or procedure, disciplinary action will be taken, if the breach is deemed to be serious this could result in immediate termination. Breaches involving child safety or harm to a child will result in immediate suspension whilst management undergo an investigation. This could also result in immediate termination. All breaches and investigations will be documented and may be reported to the Regulatory Authority and/ or law enforcement.
<p>KEY TERMS</p>	<ul style="list-style-type: none"> Stakeholder - a person or group of people who have an interest in a business, a person such as an employee or customer. They have a sense of responsibility toward it and an interest in its success.
<p>WE GRATEFULLY ACKNOWLEDGE THE</p>	<ul style="list-style-type: none"> Age Discrimination Act 2004 Australian Children's Education & Care Quality Authority. ACECQA

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FOLLOWING SOURCES

- Australian Government Attorney Generals Department
- Australian Human Rights Commission www.humanrights.gov.au
- Bullying No WAY -bullyingnoway.gov.au
- Code of Ethics
- Disability Discrimination Act 1992
- Education and Care Services National Law Act 2010.
- Education and Care Services National Regulations.
- Fair Work Act 2009
- Fair Work Australia www.fairwork.gov.au
- Guide to the Education and Care Services National Law and the Education and Care Services National Regulations.
- Guide to the National Quality Framework.
- National Quality Standard.
- NSW – WHS Act 2011 (NSW) & WHS Regulation 2017
- Racial Discrimination Act 1975
- Sex Discrimination Act 1984
- United Nations Convention on the Rights of the Child
- Victoria – OHS Act 2004 (Vic) & Psychological Health Regulations 2022

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