PREVENTION OF HARASSMENT AND BULLYING

QUALITY AREA 7 | ELAA version 1.0

PURPOSE

The purpose of this policy is to provide a safe and inclusive environment for all children, families, staff, and volunteers within South Kingsville Preschool . South Kingsville Preschool does not tolerate any form of workplace harassment or bullying, this policy sets out the process which is to be followed should any instances of workplace bullying be reported.

POLICY STATEMENT

VALUES

South Kingsville Preschool is committed to:

- providing and maintaining a working environment that is safe and free of health risks, so far as is reasonably practicable.
- acting on a positive duty to identify, manage and control, as so far as reasonably practicable, psychosocial risks and hazards
- acting on our duty of care to ensure the health and well-being of our staff, including monitoring conditions and health at the workplace
- promoting the cultural safety of Aboriginal and Torres Strait Islander communities/people, people from culturally and linguistically diverse backgrounds, people with a disability, LGBTQIA+ people and other diverse communities
- practicing zero tolerance of harassment and workplace bullying
- prevent unlawful discrimination, including acting on our positive duty to eliminate sex discrimination, sexual harassment, and victimisation as far as is reasonably practicable.
- Encouraging the reporting of behaviour which breaches this policy
- ensuring persons are free from a hostile work environment based on sex or other protected attributes
- handling all harassment or bullying complaints in a confidential and procedurally fair manner, including protection from victimisation or reprisals for person reporting
- ensuring that all parties will be treated with respect.
- ensuring the person against whom the allegation is made has the right to natural justice.

SCOPE

This policy applies to the approved provider, persons with management or control, nominated supervisor, persons in day-to-day charge, early childhood teachers, educators, staff, students, volunteers, parents/guardians, and others attending the programs and activities of South Kingsville Preschool , including during offsite excursions and activities.

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RESPONSIBILITIES	Approved provider and persons with management or control	Nominated supervisor and persons in day-to-day charge	Early childhood teacher, educators and all other staff	Parents/guardians	Contractors, volunteers and students
R indicates legislation requirement, and should not be deleted					
Ensuring the *Prevention of Harassment and Bullying and Policy* is adhered to at all times	R	√	√	√	√
Ensuring staff understand that they have a legal responsibility to care for their own health and safety and that of co-workers, and must not engage in acts which constitute bullying or behaviour	√	√			
Co-operating and complying with this policy and any other relevant policy	√	√	√	√	√
Following instructions given by their direct report relating to the prevention of workplace injuries and illnesses.		√	√		√
Ensuring that acceptable standards of conduct are observed at all times, including a zero tolerance of any behaviour that may constitute bullying, harassment, vilification or discrimination	R	√	√		
Implementing measures to prevent workplace bullying which includes monitoring the work environment to ensure acceptable standards of conduct are observed at all times.	R	√			
Taking early corrective action to deal with behaviour that may be inappropriate, offensive or intimidating, even if a complaint has not been made	√	√			
Taking all reasonable steps to eliminate harassment and bullying so far as is reasonably practicable *(Refer to the Compliments and Complaints Policy)*	√	√			
Ensuring that all applicable occupational health and safety (OHS) legislation is observed *(Refer to Legislations and Standards)*	R	√			
Ensuring that incidences of bullying are reported *(refer to Staff Grievances and Dispute Resolution Policy, Attachment 1: Staff Grievances and Dispute Resolution Procedures Guidelines)*	R	√	√		√
Ensuring that all employees and volunteers are regularly educated and made aware of their obligations and responsibilities in relation to providing a workplace free from harassment and bullying	√	√			
Providing an environment which discourages harassment and bullying, and setting an example by their own behaviour	R	√			
Ensuring that all complaints are treated seriously and confidentially *(refer to Staff Grievances and Dispute Resolution Policy, Attachment 1: Staff Grievances and Dispute Resolution Procedures Guidelines)*	R	√			

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As far as practicable being aware of whether harassment and bullying is occurring, whether complaints are received or not, relying on such indices as: • sudden increases in absenteeism • unexplained requests for transfers • behavioural changes such as signs of depression • sudden deterioration in work performance	√	√			
Taking immediate and appropriate action if they become aware of any harassment, bullying or offensive behaviour *(refer to Staff Grievances and Dispute Resolution Policy, Attachment 1: Staff Grievances and Dispute Resolution Procedures Guidelines)*	R	√			
Taking responsibility to ensure they do not promote or engage in bullying and otherwise take reasonable care that their acts or omissions do not adversely affect the health, wellbeing, and safety of other people	√	√	√	√	√
Ensuring any reported allegations of workplace harassment or bullying are promptly, thoroughly, and fairly investigated	R	√			
Ensuring guidance and education is provided, where requested and/or appropriate, to cases and subsequent decisions relating to harassment or bullying	√	√			
Providing ongoing support and guidance to management, employees, students and volunteers in relation to the prevention of harassment or bullying	√	√			
Ensuring this policy is displayed in the workplace and easily accessible to all workers and volunteers	√	√			

BACKGROUND AND LEGISLATION

BACKGROUND

Harassment and bullying in the workplace may have an adverse effect on a person's health and work performance. Additionally, it can increase expenses, staff turnover, absenteeism, and poor morale as well as cause productivity loss.

As an approved provider, you have a duty under the OHS Act to provide and maintain for your employees, so far as is practicable *(refer to Sources)*, a working environment that is safe and without risks to health. This duty includes providing and maintaining systems of work that are, so far as is reasonably practicable, safe and without risks to health.

The approved provider has a responsibility to identify hazards and assess associated risks that may lead to workplace harassment and bullying. The best approach to deal with risks to health and safety associated with workplace harassment and bullying is to implement appropriate measures in the workplace.

Preventing workplace bullying relies heavily on the workplace culture. The workplace culture establishes the norms and values that dictate behaviour within an organisation, and everyone contributes to it. However, management plays a particularly influential role in shaping the culture and has a greater responsibility to promote a positive environment. One of the key factors in preventing workplace bullying is senior management's commitment to identify, prevent, and respond to such behaviour, thereby managing psychological risks.

Effective leaders model the organisation's values and standards for workplace behaviour, which sends a clear message to employees that bullying will not be tolerated. Employers and managers can establish the desired workplace culture through training, role modelling, and prompt intervention

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when undesired behaviours occur. What employers and managers say and do has a significant impact on the workplace culture.

To promote a positive workplace culture and prevent bullying, the workplace policy should be communicated and promoted to all employees. This can be done through various channels, including notice boards, team meetings, the intranet, and regular discussion with team members.

LEGISLATION AND STANDARDS

Relevant legislation and standards include but are not limited to:

- Equal Opportunity Act 2010 (Vic)
- Racial and Religious Tolerance Act 2001 (Vic)
- Sex Discrimination Act 1984 (Cth)
- Racial Discrimination Act 1975 (Cth)
- Disability Discrimination Act 1992 (Cth)
- Human Rights and Equal Opportunity Commission Act 1986 (Cth)
- Fair Work Act 2009 (Cth)
- Fair Work Regulations 2009 (Cth)
- Occupational Health and Safety Act 2004 (Vic)
- Sex Discrimination and Fair Work (Respect at Work) Amendment Act 2021 (Cth)
- Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Act 2022 (Cth)
- Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022 (Cth)

The most current amendments to listed legislation can be found at:

- Victorian Legislation – Victorian Law Today: www.legislation.vic.gov.au
- Commonwealth Legislation – Federal Register of Legislation: www.legislation.gov.au

DEFINITIONS

The terms defined in this section relate specifically to this policy. For regularly used terms e.g., Approved provider, Nominated supervisor, Notifiable complaints, Serious incidents, Duty of care, etc. refer to the Definitions file of the PolicyWorks catalogue.

Adverse action: Occurs when an employer takes or threatens to take harmful or discriminatory action (referred to as adverse action under the *Fair Work Act 2009*) against an employee, or a prospective employee, based on a protected attribute *(Refer to the Definitions) or* prohibited reason. A prohibited reason includes workplace rights (employment entitlements), industrial association or activities, long periods of sick leave (temporary illness or injury), and/or sham contracting.

Bullying: Is repeated and unreasonable behaviour directed towards a person or group of persons that creates a risk to health and safety. It includes conduct that could be expected to intimidate, offend, degrade, humiliate, undermine, or threaten. Bullying also includes systematic/repetitive physical and/or psychological abuse. Bullying is defined as workplace bullying when it occurs within the context of an employee or individual work environment

Discrimination: Refers to the unjust or prejudicial treatment of individuals or groups based on certain characteristics referred to as protected attributes *(Refer to the Definitions)*. Unlawful discrimination can manifest in various forms, including but not limited to direct actions, policies, practices, or systemic biases that result in unequal treatment or disadvantage for certain individuals or groups. Discrimination is unlawful under various state and federal anti-discrimination legislation, as listed above, including protections against discrimination in the workplace. Employers are also prohibited

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from taking 'adverse action *(Refer to Definitions)* against an employee, or a prospective employee on the basis of a protected attribute or other grounds (such as industrial association, a temporary illness or injury, and sham contracting) under the Act

Harassment: Includes, but is not limited to, unwanted, unsolicited , unwelcome behaviour that is offensive, embarrassing, intimidating, or humiliating. For the purpose of this policy, harassment will include sexual and other forms of harassment (including workplace sexual harassment)

Psychosocial risk (hazard): A psychosocial hazard is a hazard that arises from systems of work, the design, layout and environment of a workplace, interactions, and behaviours (which can include a toxic workplace culture or sexual harassment), or the guidance of supervision provided to employees, to the extent that these factors may cause psychological harm. Common psychosocial risks may include overworked employees, jobs involving unreasonable demands, chronically working long hours, or working remotely without much communication or support from management

Protected attribute: Under the *Fair Work Act 2009*, employees and prospective employees have the right to be free from discrimination on the basis of race, colour, gender, sexual orientation, physical or mental disability, marital status, family or caring responsibilities, pregnancy, religion, political opinion, national or social origin, breastfeeding, gender identity and/or intersex status

Reasonable management action (workplace bullying): The *Fair Work Act* provides that an employee is not considered to be bullied by their employer (or management) when reasonable management action is or will be taken. Management actions must be conducted appropriately and reasonably and include, and are not limited to:

- providing fair and constructive feedback on performance or conduct
- responding to poor performance, including performance management processes
- conducting necessary disciplinary meetings or disciplinary action
- directing and controlling how work is carried out.

Sexual harassment: Under the *Sex Discrimination Act 1984* and the *Equal Opportunity Act 2010*, sexual harassment refers to unwanted, unwelcome behaviour of a sexual nature that is offensive, embarrassing, intimidating, or humiliating. Sexual harassment can involve physical contact or suggestive behaviour or comments, propositioning and unnecessary and/or unwelcome familiarity.

Unreasonable behaviour: Means behaviour that a reasonable person, having regard to all of the circumstances, would expect to victimise, humiliate, undermine, or threaten. Examples of behaviour, whether intentional or unintentional, that may be considered to be workplace bullying if they are repeated, unreasonable and create a risk to health and safety include but are not limited to:

- abusive, insulting or offensive language,
- belittling or humiliating comments, including practical jokes or initiation rituals
- victimisation, threats, or coercion
- aggressive or intimidating conduct
- making vexatious allegations against another employee or group of employees
- unjustified criticism or complaints
- deliberately excluding someone from workplace conversations/activities
- withholding information that is vital for effective work performance
- setting unreasonable timelines or constantly changing deadlines
- setting tasks that are unreasonably below or beyond a person's skill level
- denying access to information, supervision, consultation, or resources to the detriment of the worker
- spreading misinformation or malicious rumours
- conducting a workplace investigation in a grossly unfair manner
- changing work arrangements such as rosters and leave to deliberately inconvenience a particular employee or employees.

Workplace bullying: As defined under the *Fair Work Act 2009*, workplace bullying is repeated, unreasonable behaviour directed towards a worker, or group of workers, that creates a risk to health or safety. Reasonable management action conducted in a reasonable manner does not constitute

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workplace bullying. Workplace bullying can be carried out in various ways, including through email, text, or social media channels. Workplace bullying can occur between employees (sideways), from managers to employees (downwards), or from employees to supervisors/managers (upwards)

Workplace investigator: An external individual who is responsible for conducting impartial and objective investigations into workplace incidents, complaints, or alleged misconduct. They are typically appointed by an employer/approved provider or assigned by a designated authority within the organisation to gather relevant information, interview witnesses, review evidence, and make findings and recommendations based on their investigation.

Workplace investigation: The purpose of a workplace investigation is to thoroughly examine the allegations, determine the truth, and make informed decisions regarding appropriate actions, including disciplinary measures or corrective actions. The investigation process involves gathering evidence, interviewing relevant individuals, reviewing documents or records, and assessing the credibility of the information provided. The investigator remains impartial and objective throughout the process, ensuring a fair and unbiased examination of the situation.

Workplace sexual harassment: The terms 'sexually harassed at work' and 'sexual harassment' are also defined under the *Fair Work Act 2009* and include prohibitions on a person making an unwelcome sexual advance, an unwelcome request for sexual favours, or unwelcome conduct of a sexual nature to a person harassed in connection with work

SOURCES AND RELATED POLICIES

SOURCES

- Prevention of Bullying and Violence at Work: www.worksafe.vic.gov.au
- Victorian Equal Opportunity and Human Rights Commission: www.humanrights.vic.gov.au
- Victorian Ombudsman for breaches of the Charter of Human Rights and Responsibilities Act 2006: www.ombudsman.vic.gov.au/complaints/human-rights/
- Protection from discrimination at work. Fair Work Ombudsman: Protection from discrimination at work - Fair Work Ombudsman: www.fairwork.gov.au/employment-conditions/protections-at-work/protection-from-discrimination-at-work
- What is sexual harassment in connection with work? Fair Work Commission. : www.fwc.gov.au/issues-we-help/sexual-harassment/sexual-harassment-commencing-6-march-2023/what-sexual-harassment
- Effectively preventing and responding to sexual harassment: A code of practice for employers: humanrights.gov.au/our-work/sex-discrimination/publications/effectively-preventing-and-responding-sexual-harassment-0
- What is adverse action? What is adverse action? | Fair Work Commission: www.fwc.gov.au/job-loss-or-dismissal/dismissal-under-general-protections/about-general-protections/what-adverse
- Occupational Health and Safety Amendment (Psychological Health) Regulations: www.worksafe.vic.gov.au/occupational-health-and-safety-amendment-psychological-health-regulations

RELATED POLICIES

- Code of Conduct
- Compliments and Complaints
- Staffing
- Staff Grievances and Dispute Resolution
- Occupational Health and Safety
- Occupational Violence and Aggression
- Whistleblower

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EVALUATION

In order to assess whether the values and purposes of the policy have been achieved, the approved provider will:

- regularly seek feedback from persons affected by the policy regarding its effectiveness
- review the effectiveness of the policy and procedures to ensure that all complaints have been dealt with in a fair and timely manner
- keep the policy up to date with current legislation, research, policy and best practice
- revise the policy and procedures as part of the service's policy review cycle, or as required
- notifying all stakeholders affected by this policy at least 14 days before making any significant changes to this policy or its procedures, unless a lesser period is necessary due to risk *(Regulation 172 (2))*.

ATTACHMENTS

- Nil

AUTHORISATION

This policy was adopted by the approved provider of South Kingsville Preschool on 18-03-2024.

REVIEW DATE: March 2027

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