

Workplace bullying policy

HDKA promotes a commitment to child safety, wellbeing, participation, empowerment, cultural safety and awareness including children with a disability, Aboriginal and Torres Strait Islander children and/or communities and children from cultural and/or linguistically diverse backgrounds.

HDKA has a zero tolerance of child abuse and a duty of care to prevent and manage child abuse risks including physical and online environments.

Purpose

This policy will provide guidelines to:

- Promote appropriate standards of behaviour at all times.
- Ensure HDKA complies with all of its obligations under the relevant legislation.

Values

HDKA is committed to:

- Ensuring that all staff work in an environment where people are treated with mutual respect.
- Treating complaints of bullying in a sensitive, fair, timely and confidential manner.
- Implementing training and awareness raising strategies to ensure all employees know their rights and responsibilities.
- Providing an effective procedure for complaints of bullying to be addressed.
- Encouraging the reporting of behaviour that breaches the Workplace Bullying policy.
- Ensuring protection from victimisation or reprisals for persons reporting workplace bullying.

Scope

This policy applies to:

- Members of the Board of Management, Executive Officer, Pedagogical Leader, Nominated Supervisor, Certified Supervisor, educators and staff involved in the programs and activities of services administered by HDKA.
- On-site, off-site or after hours work, work-related social functions, conferences – wherever and whenever staff may be as a result of their HDKA duties.
- Staff treatment of fellow staff members, of children and families and of other members of the public encountered in the course of their HDKA duties.

Background

Bullying in the workplace is inappropriate and unacceptable behaviour. Employees found to have either committed or condoned such behaviour in the workplace will be subject to disciplinary action which may include termination of employment. It is important for a productive and harmonious workplace that employees are aware of the impact of their behaviour on others.

Legislation

- *Equal Opportunity Act 2010 (Vic)*
- *Racial and Religious Tolerance Act 2001 (Vic)*
- *Occupational Health and Safety Act 2004 (Vic)*
- *Sex Discrimination Act 1984 (Cwlth)*
- *Racial Discrimination Act 1975 (Cwlth)*
- *Disability Discrimination Act 1992 (Cwlth)*
- *Age Discrimination Act 2004 (Cwlth)*
- *Human Rights and Equal Opportunity Commission Act 1986 (Cwlth)*
- *Fair Work Act 2006 (Cwlth)*

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Definitions

Sexual harassment - is a specific and serious form of harassment. It is unwelcome sexual behaviour, which could be expected to make a person feel offended, humiliated or intimidated. Sexual harassment can be physical, spoken or written. Just because someone does not object to inappropriate behaviour in the workplace at the time it does not mean that they are consenting to the behaviour.

Sexual harassment is covered in the workplace when it happens at work, at work-related events, between people sharing the same workplace or between colleagues outside of work.

A single incident is enough to constitute sexual harassment – it doesn't have to be repeated. All incidents of sexual harassment – no matter how large or small or who is involved – require employers and managers to respond quickly and appropriately.

Harassment – includes but is not limited to unwanted, unwelcome behaviour that is offensive, embarrassing, intimidating or humiliating.

Bullying – includes systematic, repetitive physical or psychological abuse.

Workplace bullying – is repeated, unreasonable behaviour detected towards an employee or group of employees that creates a risk to health and safety.

Unreasonable behaviour – means behaviour that a reasonable person having regard to all of the circumstances would expect to victimise, humiliate, undermine or threaten.

For the purpose of this policy harassment will include sexual and other forms of harassment including bullying.

Procedure

1. Any employee, committee member, parent, volunteer or student on placement who reports harassment will have the matter treated in the strictest confidence.
2. HDKA will ensure that all complaints or grievances in relation to harassment, regardless of whether they are of a major or minor nature will be treated seriously and an investigation carried out fairly, efficiently and expeditiously.
3. All parties to a grievance have a right to:
 - have grievances conducted in a fair, objective and unbiased manner
 - be treated with respect
 - be kept informed about the progress of the grievance
 - only have relevant factors taken into account in addressing the matter
 - not be subjected to any form of retribution either stated or implied
 - have a support person present at all stages of the process but not a legal representative. A support person may be a work colleague or union representative who may offer support but not act as an advocate
 - be informed verbally and in writing of the outcome of the grievance including reasons.
4. All parties to the grievance are expected to:
 - respect and consider alternative views and opinions
 - fully participate in the grievance process.

Harassment reporting procedure

Step 1: Opportunity for resolution

If an employee is offended or believes they are the subject of harassment the best response is to take firm and positive action. The aggrieved person is encouraged to make the person or persons aware that their actions are unwelcome, offensive or intimidating.

If the behaviour continues or if the aggrieved person feels they are unable to confront the person directly they should report the matter to the Pedagogical Leader or Executive Officer to explore

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possible strategies for resolving the difficulty without recourse to a formal complaint.

Step 2: Lodgement of complaint

If the problem is not or cannot be rectified by approaching the perpetrator of the alleged inappropriate behaviour the following steps should be taken:

1. The aggrieved person should place a complaint in writing to the Executive Officer or in their absence the Pedagogical Leader. The complaint should set out the nature and details of the matter as well as any suggestions they have to resolve the complaint.
2. Once the complaint has been made care will be taken not to discriminate against or victimise the complainant or the alleged harasser.

Step 3: Consultation about complaint

Attempts will be made in all cases to resolve the complaint to the mutual satisfaction of those involved. This should occur as soon as is reasonably practicable. Depending on the nature and severity of the matter the following action may be undertaken:

1. The Executive Officer and Pedagogical Leader will meet with the alleged harasser to formally notify them of the written complaint. This person must be advised of the following:
2. The right to have a support person present at all stages of the process but not a legal representative. A support person may be a work colleague, union representative or friend who can offer support only as they are not there to act as an advocate.
3. Not to contact the complainant.
4. No action will be taken until they have had an opportunity to be heard.
5. If after discussions with the alleged harasser it appears that a simple modification of behaviour on the part of the alleged harasser will to the satisfaction of the complainant resolve the complaint, the Executive Officer and Pedagogical Leader should agree with the complainant that no further action be taken. If after a period of three months there are no further complaints the matter will be closed.

Step 4: Complaint investigation phase

If it is not possible to resolve the complaint through discussions with the relevant parties within an expeditious time the Executive Officer or delegate will conduct a formal investigation into the complaint. This investigation should be completed within five working days of the conclusion of the consultation phase.

All documents relating to the complaint will be kept confidential and shall not be produced or made available for inspection except on instruction from a relevant authority.

During the period of the investigation of serious sexual or other harassment, wherever possible the complainant and the alleged harasser should not be required to work with each other in the same physical area if requested by either party. Wherever possible alternative working arrangements should be made if requested by either party. If this is not possible a third person should be present whose role will be to monitor all contact.

Step 5: Resolution of complaint following investigation

If following investigation and resolution a complaint is found to have foundation the Executive Officer will determine an appropriate action plan that addresses the matters of concern and will take steps to immediately prevent a recurrence of the behaviour. Both parties will be told of the outcome of the investigation, recommendations (if any) and reasons. If the harasser is an employee the complaint and resolution are to be noted on relevant personnel files.

Where the incident involved an employee and disciplinary action taken was effective, or the action taken with a non-employee was effective, a check should be made at regular intervals to ensure that the behaviour has stopped and that the solution is working satisfactorily.

Redress or compensation for the complainant may include a private or public written or verbal apology from the harasser.

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If following investigation the complaint is found to have no foundation the complainant may be offered counselling. If it is considered that the complaint was made maliciously action may be taken against the complainant.

Application to an external organisation

As sexual and disability harassment are breaches of Victorian and Commonwealth legislation the aggrieved party is entitled to take their complaint at any time to a court of competent jurisdiction such as The [Human Rights Commission](#) and the [Victorian Human Rights and Equal Opportunity Commission](#)

Employee assistance program

HDKA staff are entitled to a certain amount of free, professional counselling from our employee assistance program. To access the employee assistance program see the *Employee Assistance* procedure.

More information

If you have a query about this policy or need more information please contact

- [Victorian Equal Opportunity and Human Rights Commission](#)
- [WorkSafe Victoria](#)

Service policies

- Code of conduct
- Occupational Health and Safety
- Privacy and confidentiality
- Employee Assistance Program