



## **BULLYING/ EQUAL OPPORTUNITY/ DISCRIMINATION/ SEXUAL HARASSMENT POLICY**

### **1. INTRODUCTION**

Brighton Recreational Centre considers that Discrimination, Vilification, Sexual Harassment, Bullying and Victimization by or towards workers is unlawful and an unacceptable form of behaviour that will not be tolerated under any circumstances.

The purpose of this policy is to:

- assist Brighton Recreational Centre to meet its obligations and responsibilities under occupational health and safety, antidiscrimination and equal opportunity legislation;
- provide information and clear guidelines to Supervisors, Workers and all other relevant persons on expected standards of behaviour and responsibilities; and
- provide mechanisms for dealing with allegations of Discrimination, Vilification, Sexual Harassment, Bullying and Victimization

### **2. DEFINITIONS**

Definitions In this policy –

- "Complainant" refers to the Worker making the allegation of Discrimination, Vilification, Sexual Harassment, Bullying or Victimization.
- "Respondent" refers to the Worker alleged to have engaged in Discrimination, Vilification, Sexual Harassment, Bullying or Victimization and who is responsible for responding to the complaint.
- "Supervisor" means a person who manages or supervises the duties of a Worker.
- "Worker" means a Brighton Recreational Centre employee, contractor, volunteer or third party provider of programs/services within the centre.

The terms Discrimination, Attribute, Vilification, Sexual Harassment, Bullying and Victimization are defined below.

### **3. POLICY STATEMENT**

The Brighton Recreational Centre recognises its responsibilities and obligations under occupational health and safety, antidiscrimination and equal opportunity legislation. Brighton Recreational Centre aims to provide so far as is reasonably practicable a safe working environment where all Workers are treated with dignity, courtesy and respect.

#### 4. POLICY

This policy applies in any situation where there is a connection with work including, but not limited to, work performed away from the office, work functions, conferences, office parties and business trips, even if these occur outside of work hours and/or away from Brighton Recreational Centre's premises. This policy applies to all Workers.

This policy is designed to ensure that all workers understand their rights and responsibilities and through this understanding, behave in ways that demonstrate mutual respect.

Workers must:

- not Discriminate against a job applicant, another Worker or any other person in connection with work;
- not subject a job applicant, another Worker or any other person in the workplace to Vilification in connection with work;
- not Sexually Harass a job applicant, another Worker or any other person in connection with work;
- not Bully a job applicant, another Worker or any other person in connection with work;
- not Victimise a person who has made a complaint about Discrimination, Vilification, Sexual Harassment or Bully or Victimise a person involved in the investigation of a complaint brought under this policy;
- not assist or encourage another person to Discriminate against, Vilify, Sexually Harass, Bully or Victimise another;
- not make a complaint of Discrimination, Vilification, Sexual Harassment, Bullying or Victimisation in bad faith or for an ulterior motive;
- offer support to anyone who feels they are being Discriminated against, Vilified, Sexually Harassed, Bullied or Victimised;
- maintain privacy and confidentiality (to the extent permitted by law) during investigations into allegations brought under this policy;
- immediately report Discrimination, Vilification, Sexual Harassment, Bullying or Victimisation to their Supervisor; and comply with this policy.

In addition to the above, Supervisors must:

- take reasonable steps to ensure that, as far as practicable, job applicants, Workers and any other people in the workplace are not exposed to Discrimination, Vilification, Sexual Harassment, Bullying or Victimisation;
- personally demonstrate appropriate behaviour;

- promote and enforce this policy;
- treat all complaints brought under this policy seriously;
- not disclose information provided by a Complainant without their consent (unless required by law);
- take reasonable steps to ensure where a person lodges, or is a witness to, a complaint brought under this policy, that the person is not victimised; and
- ensure, as far as practicable, that all Workers for whom they are directly responsible attend and
- actively participate in training, education and awareness activities.

Supervisors who knowingly tolerate Discrimination, Vilification, Sexual Harassment, Bullying or Victimisation in the workplace may be guilty of misconduct and dealt with in accordance with the Brighton Recreational Centre's Code of Conduct.

In addition to the above, the General Manager must on a regular basis, organise and develop relevant training, education and awareness strategies for the prevention of Discrimination, Vilification, Sexual Harassment and Bullying for workers.

If there is no complaint, but management is aware that any form of Discrimination, Vilification, Sexual Harassment, Bullying or Victimisation is possibly occurring, management must address the issue promptly.

#### What is Discrimination?

Discrimination may be direct or indirect. Direct Discrimination means treating, or proposing to treat, another person with an attribute (listed below) unfavourably because of that attribute. For example, direct discrimination would include not allowing a person to participate in work-related training because they are pregnant.

It is irrelevant whether or not the person is aware that his or her conduct is discriminatory. It is also irrelevant whether the attribute was the reason for the discrimination or one of a number of reasons for the discrimination.

Indirect Discrimination means requiring, or proposing to require, a person with an attribute (listed below) to comply with a requirement, condition or practice that has, or is likely to have the effect of disadvantaging people with that attribute and that is not reasonable. Whether a requirement or condition is reasonable depends on all the relevant circumstances of the case, including:

- the nature and extent of the disadvantage resulting from the imposition of the requirement or
- condition;

- whether the disadvantage is proportionate to the result sought by the person imposing the requirement or condition;
- the costs of alternative requirements or conditions;
- whether reasonable adjustments or accommodation could be made to the requirement or condition to reduce the disadvantage caused; and
- the financial circumstances of the person imposing, or proposing to impose, the requirement or condition.

### Attributes

Discrimination on the basis of the following attributes is not permitted:

- age;
- breastfeeding;
- employment activity;
- family responsibilities;
- gender identity;
- impairment/disability;
- industrial activity;
- intersex status;
- irrelevant criminal record;
- lawful sexual activity;
- marital or relationship status;
- parental status or status as a carer;
- physical features;
- political belief or activity;
- pregnancy;
- race;
- religious belief, activity, appearance or dress;
- sex;
- sexual orientation; and
- personal association (whether as a relative or otherwise) with a person who is identified by reference to any of the above attributes.

### What is Vilification?

Vilification means engaging in conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of another person or class of persons because of the person's race, religion, gender identity or sexuality or because the person is infected with HIV or AIDS or is thought to be infected with HIV or AIDS. Vilification may occur due to conduct on a single occasion or conduct on numerous occasions.

### What is Sexual Harassment?

Sexual Harassment is any unwelcome sexual advance, or unwelcome request for sexual favours from a person, or any other unwelcome conduct of a sexual nature which, having regard to all of the circumstances, a reasonable person would have anticipated as being offending, humiliating or intimidating.

Sexual Harassment:

- is not friendship, mutual attraction or consensual behaviour;
- can occur at work or outside the workplace e.g. social functions;
- may be one incident or a series of incidents.

Examples of Sexual Harassment include:

- unnecessary familiarity such as deliberately touching, fondling, patting or pinching;
- making any gesture, action or comment of a sexual nature in a person's presence;
- displaying sexually offensive material, pictures or objects including posters and material on the internet;
- persistent questions about a person's private life, or comments about their appearance or dress.

Sexual Harassment occurs if a reasonable person would anticipate that the person harassed would be offended, humiliated or intimidated by an action. Behaviour or conduct can be found to be unlawful whether harassment was intended or unintended.

### What is Bullying?

Bullying is persistent and repeated negative behaviour directed at a Worker that creates a risk to health and safety. In particular, it may involve behaviour that a reasonable person, having regard for the circumstances, would see as unreasonable because it is victimising, humiliating, intimidating or threatening. Bullying does not have to be deliberate for conduct to constitute Bullying behaviour.

Examples of Bullying behaviour may include:

- yelling, screaming, abusive language;
- continually criticising or belittling someone;
- isolating or ignoring a Worker;
- psychological intimidation;
- undermining work performance by deliberately withholding vital information and resources;
- practical jokes.

It should be noted that organisational processes and practices, such as:

- performance management processes;
- disciplinary action;
- allocation of work for valid business reasons;
- organisational change;
- downsizing,

are not incidents of Bullying.

This policy is not intended to cover situations where a Worker has a grievance about a legitimate and reasonable organisational processes and practices, such as one or more of the practices listed above.

This policy is also not intended to diminish managerial prerogative to direct and control how work is done at the Brighton Recreational Centre other than in terms of ensuring, so far as is practicable, the health and safety of workers.

#### What is Victimisation?

Victimisation means subjecting, or threatening to subject, a person to any detriment because that person has made a complaint about the behaviours described in this policy or was involved in an investigation of a complaint brought under this policy.

## **5. GUIDELINES**

Workers who believe that they are being Discriminated against, Vilified, Sexually Harassed, Bullied or Victimised may, if they feel comfortable and safe doing so, inform the person who is behaving inappropriately that their behaviour is offensive, unacceptable, against Brighton Recreational Centre's policy and that they want it to stop immediately. If the person is not comfortable speaking with the person directly, or the person's behaviour does not change, the worker should raise concerns with his or her relevant Supervisor or the General Manager about the behaviour.

A worker may also raise concerns with his or her relevant Supervisor if they are concerned that another Worker has been subjected to Discrimination, Vilification, Sexual Harassment, Bullying or Victimisation.

The Complainant may discuss with their Supervisor or General Manager, whether they think the matter can be resolved by informal mediation/conciliation conducted by, or with the assistance of the General Manager. Brighton Recreational Centre may investigate a complaint impartially, confidentially and in a timely manner.

During the investigation, the following may occur:

- the Complainant may be interviewed to obtain details of the complaint;
- the Respondent may be interviewed regarding the complaint; and
- all relevant witnesses may be interviewed and all relevant documents may be reviewed.

The General Manager may then form a view as to whether the conduct alleged in the complaint occurred and will inform the Complainant and Respondent of its findings.

The Complainant and Respondent will both have the opportunity to put their views regarding the complaint, and to respond to any issues raised during the investigation. All parties may have a support person during the complaints process but are not obliged to do so.

Under any circumstances in which the General Manager is subject to a complaint under this policy, then the investigative role will be performed by the Brighton Recreational Centre's Chairperson.

#### Possible Outcomes

If a complaint brought under this policy is found not to be proven, no further action will be taken against the Respondent to the complaint. However, the General Manager may monitor the situation and remind all staff of Brighton Recreational Centre's expectations in relation to appropriate workplace behaviour. If the complaint is found proven, the General Manager may take disciplinary action against the Respondent (depending on the severity of the behaviour).

#### Record Keeping

Brighton Recreational Centre is responsible for retaining all documentation arising from a complaint made under this policy. The centre may record the findings of an investigation on personnel files. Advice given or agreements reached as to future handling of the matter may also be documented.

#### Breach of this Policy

The Brighton Recreational Centre may take disciplinary action against a worker who is found to breach this policy.

Disciplinary action may include:

- counselling;
- verbal or written warning; or
- termination of employment, either with or without notice.

Complaints should not be frivolous, vexatious or malicious. If the complaint is not considered to be genuine, the relevant Supervisor and/or the General Manager may choose not to proceed

further with the matter and notify the parties accordingly. Disciplinary action in accordance with the relevant policy may apply where an worker has made an allegation of Discrimination, Vilification, Sexual Harassment, Bullying or Victimisation that is demonstrably frivolous, vexatious or malicious.

Workers have the right to withdraw the complaint in writing at any time. Brighton Recreational Centre may, however, continue to investigate the complaint in order to comply with obligations under occupational health and safety or anti-discrimination law.

Anonymous complaints cannot be acted on by Brighton Recreational Centre in ordinary circumstances.

**References**

This policy was developed in accordance with the following legislation:

- Australian Human Rights Commission Act 1986
- Charter of Human Rights and Responsibilities Act 2006
- Crimes Act 1958
- Disability Discrimination Act 1992
- Equal Opportunity Act 2010
- Fair Work Act 2009
- Occupational Health and Safety Act 2004
- Racial and Religious Tolerance Act 2001
- Racial Discrimination Act 1975
- Sex Discrimination Act 1984

**6. ROLES AND RESPONSIBILITIES**

POSITION	ROLES/RESPONSIBILITIES
General Manager	<ul style="list-style-type: none"> <li>• Responsible for the development, monitoring and review of the policy</li> <li>• Responsible for ensuring suitable resource and support systems to enable compliance with this policy</li> <li>• To be responsible for ensuring compliance with related legislation, regulations and standards</li> <li>• To proactively contribute to a workplace free of discrimination, vilification, sexual harassment, bullying or victimisation</li> </ul>



Managers and Coordinators	<ul style="list-style-type: none"> <li>• To proactively contribute to a workplace free of discrimination, vilification, sexual harassment, bullying or victimisation</li> <li>• To receive and respond to any reports by complainants, and to inform the General manager of such complaints</li> <li>• To address any non compliances with the policy or actions or activities that do not align with the policy</li> </ul>
All Staff	<ul style="list-style-type: none"> <li>• To fulfil ones role in accordance with the policy</li> <li>• Report any contravention of the policy</li> <li>• To raise any complaint in any instance in which as a staff member they are a victim of discrimination, vilification, sexual harassment, bullying or victimisation</li> </ul>

**4. MONITORING, EVALUATION AND REVIEW**

Adherence to this policy will be monitored through:

- the centres compliance program
- incident reporting process
- the inclusion of KPIs aligned to the policy intent

This policy will be reviewed every two years.

Adopted: 16<sup>th</sup> April 2024

Next review due: 16<sup>th</sup> April 2026