

Framework	Policies and Procedures
Policy #	HRPOL002
Department	Human Resources
Date of Issue	1/11/21
Approver	CEO
Version #	3
Next Review	1/11/23

NAME OF DOCUMENT	Equal Employment Opportunity, Discrimination, Harassment and Bullying Policy
FRAMEWORK	Policies and Procedures
POLICY NUMBER	HRPOL002
DEPARTMENT	Human Resources
DATE OF ISSUE	1 November 2021
APPROVER	Human Resources/CEO
VERSION NUMBER	4
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1. PURPOSE

This Policy articulates Kardinia Park Stadium Trust's commitment to providing a work environment free from discrimination, sexual harassment, victimisation and vilification.

2. SCOPE

This document applies to all Kardinia Park Stadium Trust employees, students on placements, volunteers, contractors, the Chief Executive Officer (CEO), and Trustees within any work-related context including conferences, work functions, work-related social events, business trips in addition to any social media platforms and wherever and whenever staff may be as a result of their duties.

3. RELEVANT LEGISLATION

The Trust has a responsibility to prevent unlawful discrimination, unlawful harassment, victimisation and bullying in the workplace under both Commonwealth and state and territory legislation as identified below.

- *Sex Discrimination Act 1984* (Cth)
- *Racial Discrimination Act 1975* (Cth)
- *Disability Discrimination Act 1992* (Cth)
- *Age Discrimination Act 2004* (Cth)

- *Australian Human Rights and Equal Opportunity Commission Act 1986 (Cth)*
- *Fair Work Act 2009 (Cth)*
- *Workplace Injury, Rehabilitation and Compensation Act 2013 (VIC)*
- *Workplace Gender Equality Act 2012 (VIC)*
- *Equal Opportunity Act 2010 (VIC)*
- *Occupational Health and Safety Act 2004 (VIC)*
- *Racial and Religious Tolerance Act 2001 (VIC)*
- *Crimes Act 1958 (VIC)*

4. THE POLICY

The Trust (specifically the CEO, members of the senior leadership team, other people managers and where applicable the Trustees) is committed to the following guiding principles:

- The Trust recognises that all people have dignity and rights to be respected and treated fairly;
- The Trust will not tolerate or condone unlawful direct or indirect discrimination, sexual or racial harassment, bullying, victimisation or vilification.
- The Trust will aim to educate its people in being able to recognise (in others and themselves), report, prevent and deal with unlawful discrimination, bullying and harassment behaviours;
- The Trust will provide avenues for resolving complaints of unlawful discrimination, bullying and harassment complaints;
- The provided formal and informal complaints resolution options will be fair, consistent, transparent and within reasonable times.

5. EQUAL EMPLOYMENT OPPORTUNITY

Kardinia Park Stadium Trust is an equal opportunity employer and recognises that Equal Employment Opportunity (EEO) is a matter of employment obligation, social justice and legal responsibility.

The Trust will not unlawfully discriminate against any job applicants, employees, contractors, volunteers and customers; and it (via its people managers) will base its decisions in aspects of employment (e.g. recruitment and selection, promotion, training and development, tasks allocation and workload, shifts, hours of work, leave arrangements) on merit and not on any personal attributes, protected by applicable federal or state anti-discrimination and equal employment opportunity legislation.

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6. WHAT IS DISCRIMINATION?

“Unlawful discrimination” occurs when someone is treated, or it is proposed they be treated, unfavourably because of a personal characteristic protected by Commonwealth or state law. In Victoria, it is unlawful to discriminate on the basis of the following characteristics:

- > Age
- > Status as a Parent or Carer
- > Breastfeeding
- > Physical Features
- > Disability*/Impairment
- > Pregnancy
- > Employment Activity
- > Race
- > Gender Identity
- > Sex
- > Industrial Activity/Inactivity
- > Sexual Orientation or Preference
- > Lawful Sexual Activity
- > Political or Religious Beliefs or Activities
- > Marital Status
- > Association with someone with above attributes
- > Irrelevant criminal conviction

**incl. physical; intellectual; psychiatric; sensory; neurological; learning difficulties; etc*

Unlawful discrimination includes both direct and indirect discrimination:

“**Direct discrimination**” is when someone is treated, or it is proposed they be treated, unfavourably because of the above characteristics protected by law.

“**Indirect discrimination**” occurs when an unreasonable condition is imposed that disadvantages a person with a personal characteristic listed above and protected by law.

All potential and existing employees are treated with dignity and respect and are provided with equal-employment opportunities in relation to their recruitment, promotion, transfer, remuneration and conditions of employment, training, working environment, termination and redundancy. All Kardinia Park Stadium Trust employees are required to treat others at work with dignity, courtesy and respect.

7. TYPES OF DISCRIMINATION

Kardinia Park Stadium Trust will not tolerate any types of discrimination, for example:

7.1 Sex Discrimination

Under the relevant legislation sex discrimination, direct or indirect, is treating someone unfavorably because of one's gender, marital status, pregnancy or family responsibilities.

7.2 Pregnancy Discrimination

Discrimination against a woman (who is an employee or a job candidate) because she is pregnant, or potentially so, based on the assumptions about her work capacity, maternity leave, inability to undertake work travel.

7.3 Disability Discrimination

Treating a person with disability* less favorably because of that disability.

**incl. physical; intellectual; psychiatric; sensory; neurological; learning difficulties; etc*

Kardinia Park Stadium Trust managers must not discriminate against a person (an employee or potential employee) with a disability who can perform the inherent requirements of the job. The Trust is committed to give thorough considerations and make any required reasonable adjustments in the workplace to accommodate the needs of people with disabilities, as expected under relevant laws.

7.4 Racial Discrimination/Racial Harassment

Racial Discrimination includes any action or behavior which is based on person's race, colour, descent, nationality, ancestry or ethnic origin, and is reasonably likely to offend, humiliate or intimidate another person.

Examples of face-to-face or online racial discrimination which will not be tolerated at the Trust include:

- Racial pranks or taunts;
- Insensitive jokes and comments on person's racial features, traditions, skin colour;
- Offensive notices, statements;
- Racially abusive songs;
- Negative stereotyping of a particular ethnic group.

Under the Racial and Religious Tolerance Act 2001, the Trust employees will not engage in racial vilification, which is public behavior encouraging others to hate (or seriously ridicule) a person or a group of persons because of their race or religion.

8. WHAT IS SEXUAL HARASSMENT?

Kardinia Park Stadium Trust will not tolerate unlawful sexual harassment in the workplace.

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“Unlawful Sexual Harassment” is unwelcome sexual behaviour which could be expected to make a person feel offended, humiliated or intimidated in breach of Commonwealth, state or territory law.

Unlawful sexual harassment can include, but is not limited to:

- comments about a person’s private life or the way they look;
- sexually suggestive behaviour, such as leering or staring;
- brushing up against someone, touching, fondling or hugging;
- sexually suggestive comments or jokes;
- displaying offensive screen savers, photos, calendars or objects;
- repeated requests to go out;
- requests for sex;
- sexually explicit emails, text messages or posts on social networking sites.

Unlawful sexual harassment occurs in the workplace in circumstances including:

- At work;
- At work-related events;
- Between people sharing the same workplace;
- Between colleagues outside of work.

9. WHAT IS VICTIMISATION?

Kardinia Park Stadium Trust will not tolerate unlawful victimisation in the workplace.

“Unlawful victimisation” occurs when someone subjects, or threatens to subject, another person to some form of detriment or harm, in breach of state or territory law, because they have:

- Made a complaint of discrimination or sexual harassment;
- Helped someone else make a complaint of discrimination or sexual harassment;
- Is a witness (or considered to be a witness) to a claim;
- Refused to do something because it would be discrimination, sexual harassment or victimisation.

10. WHAT IS BULLYING?

Kardinia Park Stadium Trust will not tolerate bullying in the workplace.

“Bullying” is the repeated and unreasonable behaviour by an individual or group directed towards an individual or group where that behaviour creates a risk to health and safety. Reasonable management action that is carried out in a reasonable way is not bullying.

“Risk to health and safety” includes risk to the mental or physical health of the employee.

In determining whether the behaviour of an employee constitutes bullying it is irrelevant whether or not the employee is aware of the bullying, and whether or not it is intentional.

Bullying can include, but is not limited to:

- Physical or verbal abuse;
- Spreading malicious rumors or gossip;
- Intimidation;
- Psychological harassment;
- Unjustified criticism or complaints;
- Excluding or isolating people from workplace activities;
- Cyber bullying.

What is not Bullying?

The following should not be considered bullying on its own (without having regards of other circumstances):

- Reasonable management actions including to direct and control how work is undertaken by employees and communicated in a reasonable manner
- The issue of disciplinary action
- Giving an employee feedback on areas for improvement in their performance

11. WHAT IS OCCUPATIONAL VIOLENCE?

Occupational violence is defined as any incident where an employee is physically attacked or threatened in the workplace. Problems or tensions in the workplace are encouraged to be dealt with quickly and effectively. Occupational Violence will not be tolerated the Trust.

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EQUAL EMPLOYMENT OPPORTUNITY, DISCRIMINATION, HARASSMENT AND BULLYING PROCEDURE

12. INTERNAL COMPLAINT RESOLUTION MODEL

Employees who feel they have experienced or witnessed unlawful discrimination, bullying, victimisation and/or harassment at work are strongly encouraged to raise their concerns to an appropriate person within Kardinia Park Stadium Trust. An appropriate person may be a manager, a supervisor or the HR Manager. Appropriate and responsible persons, e.g., managers or supervisors, who fail to take appropriate corrective action when aware of discrimination of a person may be subject to a disciplinary action. Complaints will be treated in confidence and where confidentiality cannot be guaranteed this will be clearly indicated.

All complaints will be treated seriously by the Trust. Where a complaint may involve offences under the criminal law (such as sexual assault, indecent exposure or stalking) the matter should be referred to the police.

All parties have the right to 'due process' i.e. the person against whom the allegation is made has the right to know what is alleged against them, the right to put their case in reply, the right for a support person. The principles of natural justice require the accused party to have knowledge of the identity of their accuser and the nature of the allegations made. In determining whether or not a person discriminates, the person's intent/motive is irrelevant.

The Trust may at its discretion appoint an external independent person to manage a complaint.

Employees who believe they are being harassed or bullied are encouraged to take firm, positive and prompt action. If deemed appropriate, the employee should make the perceived offender aware that they find their behaviour unwelcome and unacceptable and that it needs to stop immediately.

If the behaviour continues, or if the employee feels unable to speak to the person(s) directly, they should approach the Trust's EO Contact Officer. The Trust is committed to appoint an EO Contact Officer (Contact Officer) who will be expected to act with integrity, empathy and compassion when assisting and supporting staff members with bullying, harassment and discrimination matters. The appointed Contact Officer will be approachable, non-judgemental and trained in the EEO principles. The main responsibilities of the Contact Officer will be to:

- be the First Point of Contact;
- assist and support, but not attempt resolve the complaint;
- act as an information resource;
- present resolution options (internal and external);

In addition, the role of Contact Officer will:

- Provide support, coaching and advice to complainant;
- Assist complainant to stop offensive behaviour informally, or assist to document complaint;
- Brief Investigation Officer;
- Attends interview with complainant at their request;
- Provide emotional support to complainant;
- Provide feedback on investigation outcomes by Investigation Officer;
- Follow-ups with complainant to prevent victimisation/recurrence.

In cases where an employee is experiencing bullying or harassment and the employee feels that the offensive behaviour continues after trying to resolve the issue themselves, or after talking to the Contact Officer, or at any stage of experiencing or witnessing bullying, harassment or discrimination, the employee may discuss the matter with their direct manager, or the Human Resources Manager, usually by having a verbal conversation first. The direct manager will focus on resolving the matter as quickly as possible. This matter will be considered resolved when the alleged discriminator respects the individual's request to cease the offensive behaviour or when the complainant accepts that the behaviour is not unlawful or inappropriate. If neither of these outcomes occurs, the Trust should continue to be resolving the issue/s. The Trust understands that there are no such thing as informal complaints and it will regard all complaints as serious, requiring attention and resolution.

A manager or supervisor who observes unacceptable (lawful or unlawful) conduct occurring may and should intervene even if no formal or informal complaint has been made.

Where a complaint is lodged in writing, the complaint is to be made to the Human Resources Manager and/or the employee's direct manager. An investigation officer will be appointed.

Following receipt of the complaint, HR or the respective manager will:

- Invite parties to have a support person during the process;
- Where appropriate initiate an investigation of the matter, which could be done by an internal senior staff member trained in conducting investigations or an external investigator;
- Keep all collected and considered evidence and interview notes in a confidential place;
- Keep parties informed about the stage and progress of the process;
- Consider and provide interim suitable risk mitigation strategies to avoid escalation of conflict and to ensure the health and well-being of the affected employees. These strategies may include alternative working arrangements.

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On completion of the investigation HR and the involved senior manager/s will determine a course of action to be taken and advise the parties of the outcome of the investigation and the decision made. Possible courses of action should the complaint be found to be substantiated may include, but will not be limited to:

- Formal apologies and undertakings that the behaviour will cease;
- Counselling;
- Disciplinary action against the harasser(s) (e.g., demotion, transfer, suspension, probation or dismissal);
- Official warnings that are noted in the harasser's personnel file.

If there is strong evidence that the complaint was vexatious or malicious, there may be action taken against the person who made the complaint. This may include, but is not limited to:

- Formal apologies and understandings that the behaviour will cease;
- Formal disciplinary action including a dismissal.

If the investigation determines that discrimination, bullying or harassment has occurred or that vexatious or malicious accusations have been made, the manager must place on file a summary of the complaint and the action taken. A copy will be placed in the respondent's personnel file in accordance with disciplinary action procedures.

13. EXTERNAL COMPLAINT RESOLUTION MODEL

Any staff member that does not feel comfortable making an informal or formal equal opportunity, discrimination or bullying complaint within the Trust they are able to direct their issues directly with the Victoria Equal Opportunity Commission, the Australian Human Rights Commission, Work Safe or the Fair Work Commission. However, the Trust encourages affected employees to use the internal complaint resolution model first.

14. RESPONSIBILITIES

Under relevant state and federal laws managers are required to take reasonable steps to prevent discrimination, harassment and bullying in the workplace. They are also required to protect employees against victimisation associated with complaints. Furthermore, the manager may be deemed vicariously

liable for the actions of their employees, contract workers or commissioned agents if they fail to act on this responsibly.

It is the responsibility of the CEO and People Managers, supported by the Human Recourses team to ensure that:

- Their employment practices, including making decisions in regard to their staff members' employment conditions, recruiting, promoting, training, developing, dismissing or transferring are based on merit, and are free from any discriminatory assumptions;
- Unlawful discrimination, bullying, harassment and victimisation do not occur by taking measures in place to prevent these proactively;
- They identify and address any behaviour that could be discriminatory, bullying, sexually harassment, victimising or vilifying within their work teams;
- Their staff members understand their responsibilities to not discriminate against, bully, sexually or racially harass, victimise or vilify or authorise or assist anyone else to do so.

It is the responsibility of all Trust employees to ensure that they:

- Understand their responsibilities and contribute to an environment which is free of discrimination, bullying and harassment by treating others with dignity and respect, and acting in accordance with the Code of Conduct;
- Do not discriminate against, bully, sexually or racially harass, victimise or vilify anyone or authorise or assist anyone else to discriminate against, sexually harass, bully, victimise or vilify others;
- Report, address and resolve offensive action and participate in ~~compliant processes~~ in good faith;
- Conduct themselves appropriately and lawfully at all times within the workplace.

13. EMPLOYEE ASSISTANCE PROGRAM (EAP)

The Trust runs a voluntary external EAP available to all employees at all times via independent professional counsellors. Employees can find information about EAP via their manager, HR, OH&S boards and on TURF (the Trust's intranet).

14. BREACHES OF THIS POLICY

The consequences of breaching this policy will depend on the seriousness of the matter and may include disciplinary action up to and including termination of employment.

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15. RELATED DOCUMENTS

Code of Conduct HRPOL001

16. WORKPLACE PARTICIPANT ACKNOWLEDGEMENT

I acknowledge:

I have received, read and understood the policy;

I am required to comply with the policy; and

There may be disciplinary consequences if I fail to comply, up to and including the termination of my employment.

Name: _____ Signature: _____

Date: _____

VERSION CONTROL AND CHANGE HISTORY

Version Number	Date	Details of Change
1	21.03.2017	First version
2	22.12.2017	Update
3	12.08.2019	Consolidating Bullying, Harassment, Discrimination and Equal Opportunity policies and procedures
4	1.11.2021	Internal complaint handling process changed- removed distinction between formal and informal resolution process. Language changed in places for clarity.

Authorisation

This policy has been authorised by the Chief Executive Officer.

Gerard Griffin
Chief Executive Officer
Kardinia Park Stadium Trust

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Internal complaint resolution model - flow chart

