



Neighbourhood Houses Tasmania Inc

Anti-Discrimination, Harassment, and Bullying

Information Handbook

**For Use or Adaptation
By
Neighbourhood Houses in Tasmania**

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1. What are Unlawful Discrimination, Harassment and Bullying?

1.1 Background

Unlawful discrimination, harassment and bullying are behaviours that are closely related in the way they exclude, offend, intimidate or humiliate a person or a group of people, often based on a negative stereotype. They occur when a person or a group of people is treated not just differently, but in a way that is unfair or disadvantages them.

According to the United Nations, unlawful discrimination can take many forms, but they all involve treating people unfairly and include some form of exclusion or rejection. Similarly, harassment is a form of unlawful discrimination, often based on a person or group of people exerting power over another person or group of people in an unwelcome way, making them feel humiliated, intimidated, belittled or apprehensive. While sexual harassment is widely recognised, harassment can also be based on gender, race, disability, sexual orientation and a range of other factors.

Some types of harassment can be described as bullying. Like harassment, it can occur by verbal, physical, written or electronic behaviour such as email or texting.

Unlawful discrimination, harassment and bullying can occur at any level of a Neighbourhood House, can be experienced by anyone and may involve a co-worker, volunteer, Co-ordinator, Management Committee member, service provider, user of the House or members of the general community who come in contact with the House.

Times change, and what once might have been considered acceptable in the general community, may no longer be acceptable, and could now be illegal in law. That can include behaviour that was previously considered acceptable by people in a workplace but is now considered unlawful discrimination, harassment or bullying.

All Tasmanian employers are required to provide a workplace that is free from unlawful discrimination and harassment and other types of prohibited conduct covered under the *Tasmanian Anti-Discrimination Act 1998*. This means that Neighbourhood Houses are legally obliged to operate according to the law as set out in this Act. It is essential that Tasmanian employers and employees are aware of and understand their rights and responsibilities under the *Tasmanian Anti-Discrimination Act 1998*.

While the *Tasmanian Workplace Health and Safety Act 1995* does not specifically refer to bullying, employers must ensure that workers are safe at work, and free from risks to their safety and health, including their physical and mental health.

Houses also have responsibilities under Commonwealth law. The Commonwealth Human Rights and Equal Opportunity Commission administers five federal laws that apply and should be complied with. These laws are:

- *Age Discrimination Act 2004*
- *Disability Discrimination Act 1992*
- *Racial Discrimination Act 1975*
- *Sex Discrimination Act 1984*
- *Human Rights and Equal Opportunity Commission Act 1986*

Also under Commonwealth law is the *Fair Work Act 2009* which allows employees who have been bullied at work to seek orders from the Fair Work Commission.

Harassment or bullying that directly inflicts physical pain, harm, or humiliation amounts to assault and should be dealt with as a police matter.

1.2 Definitions

Because unlawful discrimination, harassment and bullying are covered by both State and Commonwealth laws, it is important to be clear about the legal definitions that apply.

The language of Acts of Parliament can be quite complex. If you are uncertain, check the applicable legislation for more detail or seek professional advice. For more information please visit the Office of the Anti-Discrimination Commissioner website page at <http://www.antidiscrimination.tas.gov.au/>.

Set out below are edited excerpts from the relevant Acts and summary definitions that broadly outline what the law means and requires.

1.2.1 Unlawful Discrimination

Discrimination is treatment that occurs when someone is treated less favourably or disadvantaged on the basis of any attribute, in connection with an area of activity, covered by the Tasmanian [*Anti-Discrimination Act 1998*](#). Under the Act, discrimination is covered under two categories; direct discrimination and indirect discrimination.

Direct discrimination can take place if a person treats another person on the basis of any prescribed attribute under the Act less favourably than a person who does not share that attribute or characteristic.

Indirect discrimination can take place if a person/organisation imposes a condition, requirement or practice that is unreasonable and has the effect of disadvantaging a member of a group of people who share, or are believed to share, a prescribed attribute, more than a person who is not a member of that group.

Discrimination on the ground of any of the following attributes or identities is unlawful under the Tasmanian Act:

- age
- breastfeeding
- disability
- family responsibilities

- gender/sex
- industrial activity
- irrelevant criminal record
- irrelevant medical record
- lawful sexual activity
- marital status
- relationship status
- parental status
- political activity
- political belief or affiliation
- pregnancy
- race
- religious activity
- religious belief or affiliation
- sexual orientation/transsexuality
- gender identity
- intersex
- association with a person who has, or is believed to have, any of these attributes

Areas of activity

The Act also applies to discrimination and prohibited conduct by or against a person engaged in, or undertaking any, activity in connection with any of the following:

- employment - this includes paid or unpaid, casual, permanent or temporary employment.
- education and training - at schools, colleges, universities or other educational institutions where education and training is provided.
- provision of facilities, goods and services - this includes access and use of public places, transportation and travel and private or government service providers
- accommodation - this includes residential housing and business accommodation i.e. rental property, hotel, motel, boarding house or caravan.
- membership and activities of clubs - being a member of a club and participating in activities associated with the club.
- administration of any law of State or any State program on any ground specified (gender/sex, marital status, relationship status, pregnancy, breastfeeding, parental status or family responsibilities), and
- awards, enterprise agreements or industrial agreements on any ground specified (gender/sex, marital status, relationship status, pregnancy, breastfeeding, parental status or family responsibilities).

Prohibited conduct

The Act also makes the following conduct unlawful:

- any conduct which offends, humiliates, intimidates, insults or ridicules another person on the basis of gender, marital status, relationship status, pregnancy, breastfeeding, parental status, family responsibilities, disability, race, age, sexual orientation, lawful sexual activity, gender identity and intersex in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated, intimidated, insulted or ridiculed
- sexual harassment
- victimisation (in relation to complaints)

- inciting hatred (by public act) - on the grounds of race, disability, sexual orientation, lawful sexual activity, religious belief or affiliation, or religious activity
- publishing, displaying or advertising matter that promotes, expresses or depicts discrimination or prohibited conduct
- aiding contravention of the *Anti-Discrimination Act 1998*

Victimisation takes place if a person subjects, or threatens to subject, another person or an associate of that person to any detriment because that other person:

- made, or intends to make, a complaint under the Tasmanian *Anti-Discrimination Act 1998*; or
- gave, or intends to give, evidence or information in connection with any proceedings under the Tasmanian *Anti-Discrimination Act 1998*; or
- alleged, or intends to allege, that any person has committed an act which would amount to a contravention of the Tasmanian *Anti-Discrimination Act 1998*; or
- refused or intends to refuse to do anything that would amount to a contravention of the Tasmanian *Anti-Discrimination Act 1998*; or
- has done anything in relation to any person under or by reference to the Tasmanian *Anti-Discrimination Act 1998*.

1.2.2 Harassment and Bullying

Harassment is uninvited, unwelcome, unreasonable behaviour directed at a person or a group of people. The behaviour is usually unreciprocated and repeated. Harassment includes any written, physical, or verbal conduct that, from the perspective of a reasonable person, is offensive, belittling, humiliating, intimidating or threatening against another person.

Sexual Harassment

Sexual harassment takes place if a person –

- subjects another person to an unsolicited and unwelcome act of physical contact of a sexual nature; or
- makes an unwelcome sexual advance or an unwelcome request for sexual favours to another person;
- makes any unwelcome remark or statement with sexual connotations to another person or about another person in that person's presence; or
- makes any unwelcome gesture, action or comment of a sexual nature; or
- engages in conduct of a sexual nature in relation to another person in circumstances where the person would have anticipated that the other person would be offended, humiliated or intimidated.

Bullying in the workplace is repeated, unreasonable behaviour that intimidates, offends, undermines, degrades or humiliates a person or group of people. It can occur by verbal, physical, written or electronic behaviour such as email or texting. It can include:

- insults and constant criticism that makes a person feel humiliated or intimidated
- cruel and malicious rumours, gossip and innuendo
- deliberately and repeatedly being ignored, excluded or undermined
- behaviour or language that frightens or degrades, including swearing, yelling or threats

Unreasonable behaviour is behaviour that is offensive, humiliating, intimidating, degrading or threatening. It includes, but is not limited to,

- Verbal abuse
- Initiation pranks
- Excluding or isolating employees
- Giving a person the majority of an unpleasant or meaningless task
- Humiliation through sarcasm, or belittling someone's opinions
- Constant criticism or insults
- Spreading misinformation or malicious rumours
- Deliberately setting work routines or procedures to inconvenience certain employees
- Displaying written or pictorial material which may degrade or offend certain employees

Repeated behaviour refers to the nature of the behaviour, not the specific form of that behaviour. "Repeated unreasonable behaviour" may therefore be a pattern of different types of incidents, but all of them unreasonable.

1.2.3 What is not Unlawful Discrimination, Harassment or Bullying

There are bound to be occasional differences of opinion, conflicts and problems in every workplace. Only when the treatment of another person is unreasonable, offensive or harmful does unlawful discrimination, harassment or bullying occur.

Similarly, the reasonable, fair and respectful exercise of a supervisor's legitimate authority at work through the direction and control of work responsibilities, the monitoring of workflow, and giving feedback on performance, is not unlawful discrimination, harassment or bullying insofar as the supervisor's actions are intended to assist staff to improve their tasks, their work performance, or the standard of their behaviour. If an employee has performance problems, however, these should be identified and dealt with by the supervisor in a constructive way that is neither humiliating nor threatening.

2 Preventing Unlawful Discrimination, Harassment and Bullying

2.1 Recognise Potential Causes

Discrimination can be inadvertent or intentional. It may arise through lack of information or understanding, a stressful and difficult work environment, difficulties in private life, or it may occur because of deep seated personal prejudices or animosity towards certain people or groups of people based on negative stereotypes. Negative stereotypes are usually based on a lack of information or distorted or false information.

Harassment or bullying behaviour may or may not be intentional. However, whether behaviour is intentional or not, it is the impact as perceived by the person on the receiving end that is important.

In the following circumstances, unlawful discrimination, harassment or bullying can find a fertile ground for people's behaviour to become unacceptable.

Insufficient or Incorrect Information

- Lack of education and training to increase people's awareness and understanding of others, and what constitutes unlawful discrimination, harassment and bullying.

Poor Governance or Management Practices

- Confusing, inconsistent governance and management practices
- Poor definition of roles and responsibilities
- Ineffective communication
- Power imbalances and misuse of power
- Bias in the behaviour or treatment of management committee members, staff or users

Unsatisfactory Workplace Conditions

- Excessive workloads and unrealistic demands on people's time
- Stretched resources, putting people under pressure and making them feel undervalued
- Poor employment conditions

Personal Prejudices

- Clashes of cultural values
- Religious beliefs
- Limited life experience
- Moral judgements

2.2 Prevention

All Neighbourhood Houses need to take preventative measures to ensure they have good work practices, and policies and procedures in place that prevent unlawful discrimination, harassment and bullying from occurring.

Unlawful discrimination, harassment and bullying may occur in all areas of the operations of the Neighbourhood House. For example, it can occur between Management Committee members, Coordinator, managers, staff, volunteers and users of the House in any combination. Therefore, it is important that everyone connected with the House is aware of both the issue of unlawful discrimination, harassment and bullying and how it can be dealt with if it occurs.

To limit unlawful discrimination, harassment and bullying occurring, a Neighbourhood House should ensure that:

- All reasonable steps to eliminate unlawful discrimination, harassment and bullying have been taken.

- Everyone understands and is committed to the rights and entitlements of all employees and volunteers to attend work and perform their duties, without fear of being discriminated against, harassed or bullied in any form
- On-going education, support and guidance is provided to management, employees and volunteers about the prevention of unlawful discrimination, harassment or bullying, including training, leaflets, posters, flyers etc.
- All employees and volunteers are regularly made aware of their obligations in relation to providing a workplace free from unlawful discrimination, harassment or bullying
- It sets an example by its own behaviour which discourages unlawful discrimination, harassment and bullying
- Information and support is provided in accessible formats and appropriate language
- Information and support is readily available for potential complainants to effect early resolution and positive outcomes
- Immediate and appropriate corrective action is taken if any offensive behaviour occurs
- All complaints are treated seriously and confidentially.

2.2.1 Reasonable Steps

Taking steps to prevent unlawful discrimination, harassment and bullying is not just a good idea. Under the Tasmanian *Anti-Discrimination Act 1998*, all Tasmanian organisations/employers are required to take ‘reasonable steps’ to ensure that all its members, officers, employees, and agents are protected from unlawful discrimination and harassment in the workplace. Any House that does not comply with these legal responsibilities is liable for any contravention of the Act.

Section 104 of the Act says organisations must:

- ensure that its members, officers, employees and agents are made aware of the unlawful discrimination and prohibited conduct to which this Act relates;
- ensure that the terms of any order made by the Anti-Discrimination Tribunal relating to that organisation are brought to the notice of its members, officers, employees and agents whose duties mean that they may engage in conduct of the kind to which the order relates;
- ensure that no member, officer, employee or agent of the organisation engages in, repeats or continues such conduct; and
- take reasonable steps to ensure that no member, officer, employee or agent of the agency/organisation engages in unlawful discrimination or prohibited conduct.

There are a number of reasonable steps an organisation can take to ensure their workplace is free from unlawful discrimination, harassment and bullying. They are:

- adopt an Anti-Discrimination policy;
- develop internal grievance handling procedures;
- widely publicise policies and procedures to all employees;
- select, appoint and train a Grievance Officer;
- provide anti-discrimination training and/or information to all employees including Managers and Supervisors; and
- ensure complaints are investigated promptly and confidentially according to set policies and procedures.

It is important that the House focus on prevention and appropriate responses when dealing with unlawful discrimination, harassment and bullying. 'Reasonable steps' may vary in accordance with the size of an organisation. A large business's reasonable steps are likely to differ to the 'reasonable steps' required of a Neighbourhood House.

When responding to a complaint, a Neighbourhood House that has developed good workplace practices should be able to show that it took 'reasonable steps' to prevent unlawful discrimination, harassment and bullying and responded appropriately once it was made aware of a problem.

2.2.2 Training

All levels of management, staff and volunteers should be made aware of the issues involved in unlawful discrimination, harassment and bullying and their rights and responsibilities under the Act. Developing information and policies and procedures and ensuring that they are circulated to and available to everyone should an issue arise is one step. Providing some sort of formalised training that leads to greater understanding of the issue and what is required is more beneficial. In particular, your House Grievance Officer should be given relevant training.

The Office of the Anti-Discrimination Commissioner may be able to offer training designed to suit your House, delivered in-house or on-site at your House.

3 Dealing with Unlawful Discrimination, Harassment and Bullying

3.1 Appoint a Grievance Officer

As a critical first step to putting in place any methods of conflict and grievance resolution in the House, a Grievance Officer should be appointed and trained. The Grievance Officer serves as an important first point of contact for people who believe they have an issue in the Neighbourhood House, including unlawful discrimination, harassment, and bullying. They are a member of the House community who provides information and confidential support.

The Grievance Officer can advise people about the House conflict and grievance resolution policy and procedures and provide support to people in how best to deal with an issue of unlawful discrimination, harassment or bullying.

The Grievance Officer must operate as a neutral and impartial person when dealing with a conflict or grievance. While the Grievance Officer can provide information and support to either party involved, they must not act or speak for the complainant or the respondent. If there is any doubt about this, or if any party to the dispute expresses such a concern, the role must be handed on to an alternative grievance officer acceptable to all parties. Everyone involved must be able to have confidence that the Grievance Officer will operate with neutrality and impartiality.

3.2 The Role of the Grievance Officer

The role of the Grievance Officer is to:

- Provide a 'first point of contact' for people with enquiries related to a conflict or grievance, including unlawful discrimination, harassment and bullying.
- Provide information about the House's policies and conflict and grievance resolution procedures related to unlawful discrimination, harassment and bullying, and how to access support or advice, both internal and external to the House.
- Explain and provide information about what constitutes unlawful discrimination, harassment and bullying.
- Undertake awareness-raising in the House about House policies and procedures in regard to conflict and grievance resolution and unlawful discrimination, harassment and bullying.
- Assist parties involved in a grievance to work towards a solution.
- Where possible and as appropriate, encourage parties to utilise the informal processes available to them.
- Inform people of their rights under Tasmanian and Commonwealth law
- Refer people who decide to make a formal complaint to the relevant House policy and procedures, or to outside options such as the Anti-Discrimination Commission

The Grievance Officer should have a good knowledge of:

- House policies, including conflict and grievance resolution policies and procedures
 - Unlawful discrimination, harassment and bullying legislation and issues
 - Strategies for dealing with and assisting in the resolution of conflicts and grievances
- and should:
- Have a commitment to and understanding of social justice and equal opportunity.
 - Provide accurate information and appropriately refer matters as required.
 - By their own behaviour, act as a role model to people involved with the House.
 - Be proactive in promoting a unlawful discrimination, harassment and bullying free environment.
 - Be discreet and maintain confidentiality of the issues raised by persons seeking advice.
 - Keep up to date with any changes in policies and procedures.

It is never appropriate for a Grievance Officer to ignore a grievance/complaint. All matters should be dealt with immediately or referred to an appropriate authority.

3.3 Publicise the Policy and Grievance Officer Contact Details

It doesn't matter that your House has an anti-discrimination, harassment and bullying policy or a Grievance Officer, if no-one knows what or who they are or what they do!

The House should display and make readily available the name and contact details of the trained Grievance Officer. People also need to be made aware of the House policy on unlawful discrimination, harassment and bullying, and the support that is available to them if it should occur. Posters and displays about the issue and its impact on people could also be useful. At a minimum, the House should display, in prominent locations, a summary of the key points of the House policy and the contact details of the Grievance Officer.

3.4 Responding to complaints

There are two methods of complaint resolution offered when an issue of unlawful discrimination, harassment or bullying arises. If these are unsuitable or unsuccessful in dealing with the issue, parties to a complaint can pursue avenues outside the House that are not covered by this Policy. It is the complainant's choice as to which option, or options, they take wish to resolve their complaint.

The most important considerations in dealing with a complaint are:

- Have clearly documented procedures for dealing with complaints that are readily available
- Offer both formal and informal options for resolving complaints
- Have a trained person available to guide the complaint resolution procedures
- Deal with complaints as soon as they are received
- Ensure all parties are treated respectfully throughout the process
- Apply procedural fairness (natural justice) to all parties in an investigation. Both sides of the story must be heard. If necessary, an external investigator can be used to ensure a fair process

- Maintain confidentiality, so that only parties directly involved in the investigation or those involved in making decisions about outcomes have access to information about the grievance
- Offer the right of appeal, with a review by someone who did not handle the investigation; and
- Make all parties aware that victimisation against anyone involved in the complaint will not be tolerated and is against the law.

Complaints should not be dismissed on the ground that no one saw or heard the incident/s occur. Given the nature of the offence, there are often no direct witnesses to alleged acts of unlawful discrimination, harassment or bullying. Those responsible for investigating complaints should consider all available evidence, including any surrounding evidence.

3.4.1 Informal Procedures

Ideally, resolving concerns about unlawful discrimination, harassment or bullying should happen early, when the parties are able to mutually work through the issues between themselves, and before the situation becomes inflamed.

In the first instance, encourage the people in or close to the concern to try to sort it out by themselves. Informal procedures require an element of good will and emphasise resolution rather than factual proof or substantiation of a complaint. Informal ways of dealing with complaints of unlawful discrimination, harassment and bullying can include the following:

- the complainant deals with the situation themselves but may seek advice on possible strategies from their supervisor or the Grievance Officer (as appropriate)
- the complainant asks their supervisor or the Grievance Officer (as appropriate) to speak to the alleged perpetrator on their behalf. They then privately convey the persons concerns and reiterate the House's policy to the alleged perpetrator. In these circumstances, they do this without assessing the merits of the case

Informal action is usually appropriate where:

- the allegations are of a less serious nature but the person subjected to the behaviour wants it to cease nonetheless
- the person subjected to the behaviour wishes to pursue an informal resolution
- the parties are likely to have on-going contact with one another and the complainant wishes to pursue an informal resolution so that the working relationship can be sustained.
- the perpetrator admits the behaviour so investigation is not required and the complaint can be resolved through conciliation or counselling
- a member of the House community observes unacceptable conduct and tells the alleged perpetrator their concerns and reminds them of what the House's policy requires, even though no complaint has been made.

While an informal, mutually agreed resolution may seem desirable, people should not be required to exhaust informal attempts at resolution before any formal procedures commence. People have the right to formalise their complaint under this policy, or approach an external agency, such as the Tasmanian Anti-Discrimination Commissioner, the Fair Work Commission, or the Australian Human Rights Commission, at any stage.

3.4.2 Formal complaint procedures

Formal complaints procedures determine if a complaint can be substantiated and, if so, the appropriate way to reach a satisfactory outcome for the complainant, within the guidelines of the House policy and procedures.

Formal complaints procedures will involve:

- investigating the allegations, applying the principles of procedural fairness (natural justice)
- making a finding as to whether the unlawful discrimination, harassment or bullying occurred, or whether it is likely that it occurred
- submitting a report with a recommended course of action to the decision-maker (Coordinator or management committee as appropriate)
- implementing the recommended actions.

Formal procedures are usually appropriate where:

- the person alleging unlawful discrimination, harassment or bullying wishes to make a formal complaint from the outset.
- informal attempts at resolution have failed
- the person alleging unlawful discrimination, harassment or bullying has been victimised
- the complaint involves serious allegations of misconduct and informal resolution could compromise the rights of the parties
- the complaint is against a more senior member of staff where formal procedures may help to ensure that the complainant is not victimised or disadvantaged
- the allegations are denied but the person who claims to have been harassed wishes to proceed and investigation is required to substantiate the complaint

3.5 Legal Settlement

Where the complaint cannot be resolved under the guidance of this Policy Handbook, it will need to be referred to outside models of resolution. From the start, the complainant should be advised of their external resolution options. These may include:

- Human Rights and Equal Opportunity Commission (Commonwealth)
- Tasmanian Industrial Commission
- Office of the Anti-Discrimination Commissioner
- Office of the Ombudsman
- Workplace Standards
- Workers Rehabilitation and Compensation Tribunal
- Workplace Standards Tasmania
- Fair Work Commission.

If people are threatened with physical harm, or actual violence or damage to property is involved, a criminal offence may be involved. The police must be informed and the matter dealt with in accordance with the law.

4. Policy and Procedures



[Name of House]

Anti-Discrimination, Harassment and Bullying Policy

DEFINITIONS

Discrimination

Unlawful discrimination may be either direct or indirect and takes place where a person treats another person unfavourably on the basis of: race; age; sexual orientation; lawful sexual activity; gender; gender identity; intersex; marital status; relationship status; pregnancy; breastfeeding; parental status; family responsibilities; disability; industrial activity; political belief, affiliation or activity; religious belief, affiliation or activity; irrelevant criminal or medical record; or association with a person who has, or is believed to have, any of these attributes.

Harassment

Harassment takes place where a person engages in conduct that offends, humiliates, intimidates, insults or ridicules another person on the basis of a discriminatory attribute in circumstances where a reasonable person would have anticipated that the other person would have been offended, humiliated, intimidated, insulted or ridiculed. For example, harassment may constitute inappropriate shouting at another employee, offensive remarks, personal insinuations and comments, ostracising employee/s and other such inappropriate behaviours.

Sexual Harassment

Sexual harassment takes place if a person –

- subjects another person to an unsolicited and unwelcome act of physical contact of a sexual nature; or
- makes an unwelcome sexual advance or an unwelcome request for sexual favours to another person;
- makes any unwelcome remark or statement with sexual connotations to another person or about another person in that person's presence; or
- makes any unwelcome gesture, action or comment of a sexual nature; or
- engages in conduct of a sexual nature in relation to another person in circumstances where the person would have anticipated that the other person would be offended, humiliated or intimidated.

Bullying

Bullying is the repeated less favourable treatment of a person by another or others in the workplace, which may be considered unreasonable and inappropriate workplace practice. It includes behaviour that intimidates, offends, degrades or humiliates another employee.

Bullying does not include:

- occasional differences of opinion and non-aggressive conflicts and problems in workplace relations
- workplace counselling, performance management, performance feedback or disciplinary issues

PURPOSE

The [Name of House] is committed to creating and maintaining constructive productive and supportive working relationships with all who work in or use the House.

We recognise and support the right of every member, employee, volunteer and user of the House to be able to attend work, perform their duties and participate in the services and activities of the House free from any form of unlawful discrimination, harassment or bullying.

The purpose of this policy is to guide Management Committee members, staff, volunteers, members, and House users in understanding unlawful discrimination, harassment and bullying, preventing it occurring, and dealing with it if it happens.

This policy applies to all House-related operations, services or activities both within or external to the House, including external conferences, workshops and seminars, work functions, social events, excursions, outings, and trips

While this policy deals with issues concerning unlawful discrimination, harassment and bullying, it should be read in conjunction with the Conflict and Grievance Resolution Policy and the Confidentiality and Privacy Policy.

This policy does not apply to suspected criminal activity, which must be reported promptly and directly to Tasmania Police.

POLICY

The policy of the [Name of House] is that all aspects of the operation, services and activities of the House will be free from unlawful discrimination, harassment and bullying.

All people involved in a complaint retain the right to seek the assistance of the relevant tribunal or legislated body to assist them in resolution of the complaint.

The person making the complaint will have the right to support throughout the process and the option to discontinue a complaint at any stage of the process.

Disciplinary action may be taken against anyone who victimises or retaliates against a person who has complained of unlawful discrimination, harassment or bullying.

Disciplinary action may be taken against anyone who victimises or retaliates against a person who has been alleged to be a perpetrator of unlawful discrimination, harassment or bullying.

Members of the Management Committee, the House Coordinator, staff, and volunteers will be obliged to ensure immediate action in addressing a complaint of unlawful discrimination, harassment or bullying if the physical or mental health and safety of any of the parties is perceived to be at risk.

If threats to persons are made, or members of the Management Committee, the House Coordinator, staff, and volunteers perceives a possible danger to a party or to other people in the House, including the possibility of one party being a danger to themselves, external professional assistance must be sought immediately.

Any breach of this policy will require a documented resolution and may result in sanctions or disciplinary action. Depending upon the severity of the case, consequences may include apology, counselling, transfer, demotion, dismissal, exclusion from the House, withdrawal of membership, or other forms of disciplinary action deemed appropriate.

OBLIGATIONS

Employer

The [Name of House] is an equal opportunity employer. We will continue to manage the organisation with a positive awareness of the spirit and intent of equal opportunity and anti-discrimination laws. The law requires us to do all that is reasonable to prevent unlawful discrimination, harassment and bullying from occurring in the workplace.

The {Name of House} will provide support to the complainant and to victim(s) by directing them to the most appropriate channel for help and aid in resolving the issue. Confidentiality for all matters relating to the complaint will be maintained at all times, except to further the resolution of the complaint.

Employees, and any contractors and volunteers

You are to be aware of the requirements of this policy and act in accordance with its requirements at all times.

In particular you:

- should be aware of and identify unlawful discrimination, harassment or bullying in the workplace
 - be aware of situations which might give rise to indirect discrimination
 - encourage co-workers to behave in an appropriate and professional way
 - behave in accordance with the principles of equal opportunity and anti-discrimination
 - if behaviour that contravenes this policy is witnessed report the matter to the appropriate Manager/Supervisor
 - speak honestly with management if asked about an event that may contravene this policy.
- Any instance of unlawful discrimination, harassment or bullying must be reported to your Manager/Supervisor immediately or as soon as practicable after the incident has occurred.

Managers/Supervisors

Managers/Supervisors are responsible within their role to ensure that the objectives of this policy are included into work practices and to:

- ensure effective actions are taken to address unlawful workplace discrimination, harassment and bullying
- be considerate of the potential for requirements imposed on others to result in indirect discrimination and review current practices to ensure indirect discrimination is not occurring
- take all allegations seriously and follow proper procedures
- ensure regular meetings with employees, both team and individual, are held promoting open and honest communication, and
- promote a culture of giving and receiving regular constructive feedback and developing employee's skills.

PROCEDURES

General

The [Name of House] will provide information, and, when practicable, training to all Management Committee members, staff and volunteers on recognising, preventing and dealing with unlawful discrimination, harassment and bullying.

The [Name of House] will prominently display in plain language the key elements of its Anti-Discrimination, Harassment and Bullying Policy in public use areas of the premises, and as appropriate in House publications.

All members, staff and volunteers in the House will be responsible to ensure that unlawful discrimination, harassment and bullying do not occur.

All complaints will be treated seriously and in a sensitive, fair, timely and confidential manner, observing the principles of natural justice. The complaint resolution procedures for dealing with incidents of unlawful discrimination, harassment or bullying will be documented and provided to those involved at the outset of the process.

The wishes and concerns of the person making a complaint will be taken into account in determining how the complaint will be treated in accordance with the informal or formal complaint resolution procedures set out in this Policy.

The person making the complaint will be advised of the options for dealing with the complaint external to the House and this policy and procedures.

The respondents to any complaint will have the right to support throughout the process and the opportunity to respond fully to any allegations made. There will be no presumption of guilt and no determination made until any necessary investigation has been completed. No person will be treated unfairly or victimised as a result of notifying a complaint.

Appoint a Grievance Officer

Appoint and train a Grievance Officer, chosen from the membership of the Neighbourhood House, who is capable of responsibly and impartially dealing with concerns and complaints involving unlawful discrimination, harassment or bullying.

Appoint and train an Alternative Grievance Officer to deal with situations where it is not practical or appropriate for the Grievance Officer to be involved.

Informal Complaint Resolution

Encourage any person who feels that they have been discriminated against, harassed or bullied to directly make it clear that such behaviour is unwelcome, unacceptable and offensive and that it needs to cease immediately.

If the behaviour continues, or if the person feels unable to speak to the alleged perpetrator(s) directly, they should contact the House Grievance Officer. The Grievance Officer will provide policy and procedure information, and determine the nature of the complaint and the wishes of the person with the complaint. The complainant may be satisfied with an informal intervention to address the issue or may feel that the complaint requires a full formal investigation.

The Grievance Officer will explain the rights and responsibilities under this policy of people who are party to a complaint. The Grievance Officer may obtain assistance in this process, provided the complainant agrees to extra people being brought into the process.

During informal complaint resolution, make the alleged perpetrator aware of the allegations in full and give the right to respond.

Consider the informal complaint resolution complete if the alleged perpetrator agrees and acts to ensure that no unwanted and unwelcome behaviour occurs. If mutual agreement to the satisfaction of the complainant cannot be reached, follow the formal procedure.

Formal Complaint Resolution

BEFORE THE INVESTIGATION

Where direct, informal resolution of a complaint of unlawful discrimination, harassment or bullying is not acceptable to a person involved, not possible for other reasons, or cannot be resolved to the satisfaction of all parties, implement a formal resolution procedure.

Discuss the formal process with the complaint (particularly as witnesses or management may need to be involved in the formal procedure) before proceeding with a formal complaint, and that the complaint is put in writing. Note, it is not necessary to obtain the complainant's consent to proceed to a formal complaint.

Notwithstanding the previous clause, the person against whom a complaint has been raised may request a formal investigation and written finding in the interest of clearing their name. The Grievance Officer will clarify the complaint and obtain a step-by-step account of the incident/s. With the consent of the complainant, this may require some editing to finalise the written complaint.

INVESTIGATION

Fully and promptly investigate all formal complaints, and keep all parties informed of progress.

Do not dismiss a formal complaint solely on the grounds that no one else saw or heard the incident/s occur.

Provide the formal complaint resolution procedures to those involved at the outset of the process.

The [Name of House] will maintain confidentiality as far as is possible. Only involve the relevant parties in investigation and resolution procedures. Treat complaints in confidence, and where confidentiality cannot be guaranteed clearly advise the complainant of this. Complainants, persons against who complaints are made, and witnesses should be directed to not discuss the matter with other persons other than is necessary to assist in the resolution of the complaint.

Keep a clear and accurate written record of the details of any formal complaint and the procedures, actions and outcomes of the resolution process, including dates and signatures of those involved.

Provide the person against whom the complaint is made the right to procedural fairness (natural justice) including the right to know in full the allegations against them, to put their case in reply, and for any decision to be made by an impartial decision-maker.

The formal complaint resolution procedure will be co-ordinated by the Grievance Officer, and may be guided by the Management Committee if committee members are not a party to the complaint. The Management Committee does not necessarily need to know the specific details of the unlawful discrimination, harassment or bullying case to provide this guidance. The Grievance Officer and/or the Management Committee may seek professional advice or support from another independent and impartial organisation or individual.

The Grievance Officer will organise an investigation. Particularly if there is a dispute over facts, this will in most cases involve private interviews to ascertain the facts, but also may include, among other things:

- Clarifying what the complainant wants to happen as a result of making the complaint.
- Finding out the alleged perpetrator's side of the story.
- Private interviews with other employees, volunteers or individuals who may be able to assist.
- Collection of any document which relates to the case.
- Finding out and determining the issues and any evidence of this happening previously. NOTE: previous breaches of this policy should not be used to determine guilt or innocence, only the outcome once guilt has been proven.
- Supporting evidence provided by a medical practitioner, counsellor, family member, friend or co-worker.
- Supervisor's reports and personnel records (e.g. unexplained request for transfer or shift changes, sudden increase in sick leave).
- Complaints or information provided by others about the behaviour of the alleged perpetrator.
- Records kept by the person claiming unlawful discrimination, harassment or bullying.
- Information on the absence of evidence where it should exist (missing files etc.).
- Consistent and credible presentation of evidence in interview.

The Grievance Officer will document all interviews accurately. This will include parties involved, timing, location and nature of conduct which is the subject of the complaint.

AFTER THE INVESTIGATION

If the investigation determines that unlawful discrimination, harassment or bullying has occurred, the Grievance Officer will forward a report documenting the investigation process, the evidence, the findings and the recommended actions to the appropriate decision maker (the Coordinator or the Management Committee). A copy may be placed in the perpetrator's personnel file.

The Grievance Officer and the appropriate decision maker, in consultation with the complainant, will decide the course of action to be adopted. Possible course of actions may include any combination of the following:

- Counselling.
- Disciplinary action against the perpetrator(s) (e.g. demotion, transfer, suspension, probation or dismissal).
- Official warnings that are noted in the perpetrator's personnel file.
- Formal apologies and undertaking that the behaviour will cease.
- Conciliation or mediation conducted by an impartial and experienced third party, where the parties to the complaint agree to this.
- Reimbursing any costs associated with the unlawful discrimination, harassment or bullying.
- Re-crediting any leave taken as a result of the unlawful discrimination, harassment or bullying.

Outcomes will depend upon factors such as:

- The severity and frequency of the unlawful discrimination, harassment or bullying.
- The weight of evidence.
- The wishes of the person who was subjected to unlawful discrimination, harassment or bullying.
- Whether the perpetrator(s) could have been expected to know that such behaviour was a breach of policy.
- The level of regret and apology.
- Whether there have been any prior incidents or warnings.

The outcomes of a substantiated complaint must not disadvantage the complainant.

If there is insufficient evidence to decide whether or not unlawful discrimination, harassment or bullying occurred, the Grievance Officer will:

- Remind those involved of expected standards of conduct.
- Conduct further awareness training sessions for staff and volunteers involved in the matter.
- Monitor the situation carefully.

If there is clear evidence that the complaint was untrue, vexatious or malicious, disciplinary action may be taken against the person who complained. An explicit and clear record that the alleged perpetrator has been exonerated will be placed on the file.

The Grievance Officer will advise everyone involved of the outcome and actions to be taken. The Grievance Officer will monitor the outcome to ensure all agreed actions have been implemented, that the unlawful discrimination, harassment or bullying behaviour has ceased, and that neither party has been victimised. This may involve follow-up interviews. If there has been any further unlawful discrimination, harassment or bullying of the complainant or victimisation of the complainant or the perpetrator, then disciplinary procedures should be followed.

Keep all records and file in a confidential and secure place, separate from any employee's personnel file. Keep these records for a period of seven years.

Dealing With Criminal Conduct

Some forms of severe unlawful discrimination, harassment or bullying, such as physical attack, stalking or obscene phone calls, constitute criminal conduct. While [Name of House] is committed to treat unlawful discrimination, harassment or bullying complaints "in-House" as far as possible, refer such complaints to the police.

Advise employees and volunteers of the option of police support or intervention. While it may not be the obligation or duty of the House to report such matters to the police on behalf of the complainant, there will be circumstances where this is the appropriate course of action.

5. Forms

Discrimination, Harassment or Bullying Formal Notification Form

[Name of House]

USING THIS FORM

You need to complete this Notification Form and provide it to the House Grievance Officer if you want a formal procedure to deal with your concerns about discrimination, harassment or bullying. Advice on filling in the Form is available. Discuss this with the House Grievance Officer first if you like.

The House Grievance Officer will review the Form and clarify any details with you, including revising the Form if you require and/or agree to the revision. Once finalised and signed, a copy of the Notification Form will be provided to the other parties identified below as being involved in the discrimination, harassment or bullying. All parties must be provided with a copy of the Anti-Discrimination, Harassment and Bullying Information Handbook at the same time as they are provided with the Notification Form.

Other than the parties involved, and the Grievance Officer, the Notification Form must be kept in confidence.

DETAILS

Your Name:

Address:

Phone Number:

Mobile Number:

Email:

Please provide a brief description of the discrimination, harassment or bullying that concerns you, including descriptions of behaviour, where the behaviour occurred, and dates that the behaviour occurred. This information will help identify the best way to deal with your concerns. Add more pages if you need them.

Discrimination, Harassment or Bullying Formal Notification Form

[Name of House]

Name(s) of person(s) or group responsible for the alleged discrimination, harassment or bullying

Their contact details

What steps have you already taken to try to resolve your concerns with the other person(s) or group?

Is your concern already being dealt with or has it been dealt with elsewhere? If so, please describe briefly.

Do you have any special needs that require consideration? For example, wheel chair access, interpreter, child care (indicate times), visual/hearing disability, help to put things in writing etc.

**Discrimination, Harassment or Bullying
Formal Notification Form**

[Name of House]

Signed:

Dated:

Received by:

Signed:

Dated:

Grievance Officer Checklist

Dealing with Discrimination, Harassment or Bullying

[Name of House]

REQUIREMENTS

You must ensure that all the matters listed here have been dealt with when you are acting in the role of the Grievance Officer (or the alternative Grievance Officer) dealing with a complaint of discrimination, harassment or bullying.

As the Grievance Officer, you must treat all such notifications seriously at the outset and not dismiss or trivialise the concerns of the notifier.

As the Grievance Officer you must operate as a neutral and impartial person when dealing with a Discrimination, Harassment or Bullying Notification. If you have any doubt that you can do this, or if any party to the dispute expresses such a concern, you must hand the role onto an alternative grievance officer acceptable to all parties. Everyone involved must be able to have confidence that you will operate with neutrality and impartiality.

If you are the Grievance Officer, but are a party to the alleged discrimination, harassment or bullying, as indicated by the notifier on the Notification Form, you must immediately redirect the notifier to the alternative Grievance Officer to deal with the matter. You must also do this if there is any other conflict of interest in you undertaking the role of Grievance Officer. If neither the designated Grievance Officer nor the designated alternative Grievance Officer can meet these requirements, another competent independent person, not party to the matter, must be brought in to act in the role of Grievance Officer.

As the Grievance Officer, you must act promptly to deal with a notification of alleged discrimination, harassment or bullying. If you are unable to do so, you must obtain the agreement of the notifier to any delay, or otherwise hand the role onto an alternative grievance officer who is able to respond promptly.

As the Grievance Officer dealing with a complaint of discrimination, harassment or bullying, your role is to apply procedural fairness (natural justice) to all parties in your investigation, make all parties aware of the requirements of House policies and relevant laws, and be thorough in and document your investigation.

Except for you as the Grievance Officer and the parties involved, information obtained during your investigation must be kept in confidence.

CHECKLIST

IN ALL CASES

Action	Comments	Done
Confirm you are the appropriate person to act as Grievance Officer and explain your role in the process. If necessary, refer the person to the alternative Grievance Officer		
Confirm you can commence dealing with the complaint promptly. Advise the notifier of the likely timeline and obtain their consent to it. If you cannot act promptly, refer the notifier to the alternative Grievance Officer		
Talk with the person notifying a complaint of discrimination, harassment or bullying (the notifier) to assist them to determine the appropriate way to proceed. Provide them with a copy of the Anti-Discrimination, Harassment and Bullying Policy		
Check if there are any safety, distress or urgency issues which require immediate action		
Cross check with the requirements and options for resolution offered by the various House policy and procedures, particularly the Conflict and Grievance Resolution Policy Handbook and any House Codes of Conduct.		
Check if the notifier knows about, has attempted or is willing to try an informal resolution.		
Ensure all relevant parties understand they are required to maintain confidentiality in relation to the claim and may only discuss it with other persons as is necessary to further the resolution of the claim.		

IN CASES OF FORMAL NOTIFICATION

Action	Comments	Done
If the notifier wishes to proceed with a formal process, ask them to complete the Anti-Discrimination, Harassment and Bullying Notification Form (if they have not already done so)		

Action	Comments	Done
Explain that anyone listed on the Notification Form as a party to the complaint will be provided with a copy of the form and a copy of the Anti-Discrimination, Harassment and Bullying Policy		
Review the Notification Form with the notifier. Make any revisions, deletions or additions that the notifier requests or agrees to.		
Explain the resolution procedure and options available to the notifier		
Promptly provide all parties to the complaint with a copy of the completed Notification Form and the Anti-Discrimination, Harassment and Bullying Policy		
Remind all parties that victimisation of the notifier or the alleged perpetrator is not acceptable.		
Meet with all parties individually, or together or both of these, as frequently as necessary to gather information and get statements from the parties to the complaint and any witnesses.		
Find out as much as possible about the situation or incidents, including the behaviour involved and timelines, and collect any supporting evidence.		
Review all information and evidence, determine if discrimination, harassment or bullying has occurred, and develop recommendations on what actions should be taken.		
Prepare a draft written report documenting the allegations, your investigation process, the evidence you gathered, your findings and recommended actions.		
Circulate the draft report to the parties involved and request that written responses on matters of fact, omissions, and recommendations be provided within 10 working days.		
Check and confirm any changes to the draft report, then finalise the report and submit it to the appropriate decision maker (the Coordinator or the Management Committee).		

Action	Comments	Done
Obtain the written agreement of the appropriate decision maker for the actions to be implemented		
Advise parties of the actions/sanctions that apply.		
Arrange or apply the required actions, including sanctions. Describe clearly the expectations about future behaviour and outline the consequences of further unwanted or unacceptable behaviour.		
Clearly record in writing the actions and sanctions that have been agreed and implemented and have all parties sign and date the record.		
Place the complete file including the Discrimination, Harassment or Bullying Notification Form with any supporting documentation, documentation of relevant factual information, analysis of the information, the conclusion, and the final recommendations and implementation actions in confidential storage.		
If no resolution under the House Anti-Discrimination, Harassment and Bullying Policy is achievable, advise the notifier of their options for settlement using industrial or legal resolution models available external to the House.		
<p>List here any other actions you have taken (or not taken) and explain the details and reasons?</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p>		
Name of Grievance Officer:		
Signed:	Dated:	

6. Useful Contacts

Mediation and Conflict Resolution Support

Relationships Australia (Tasmania)

Hobart

20 Clare Street
New Town Tas 7008
Ph: 1300 364 277
Fax: 6279 5073
Email: hobart@relias.com.au
Website: www.tas.relationships.org.au

Launceston

6 Paterson St
Launceston Tas 7250
Ph: 1300 364 277
Fax: 6332 8015
Email: launceston@relias.com.au

Devonport

68 North Fenton Street
Devonport TAS 7310
Ph: 1300 364 277
Fax: 6421 3605
Email: devonport@relias.com.au

Positive Solutions – Mediation, Counselling

Freecall 1800 064 039

Hobart Office

162 Macquarie Street Hobart 7000

Launceston Office

44 Canning Street Launceston 7250

Devonport

Coastal Psychology
68 Oldaker Street Devonport 7310

Burnie

HQ Consulting Rooms
152 Wilson Street Burnie 7320

Discrimination, Harassment and Bullying

Anti-Discrimination Commission

Statewide local call 1300 305 062

Office address

Level 1, 54 Victoria St
Hobart Tas 7000

Postal address

GPO Box 197
Hobart Tas 7001
Phone: 6233 4841
Fax: 6233 5333
Email: antidiscrimination@justice.tas.gov.au

Industrial Advice

Jobs Australia

Postal Address

PO Box 299
Carlton South
Victoria 3053
Phone: 03 9349 3699
 1800 331 915 (Jobs Australia Members)
Fax: 03 9349 3655
Email: ja@ja.com.au

Quartz Consulting

South - Level 5, 2-4 Kirksway Place, Battery Point, TAS 7004.

Phone: 6223 6361
Fax: 6223 8165

North - Phone: 0427 016 106

Email: info@quartzconsulting.com.au

Tasmanian Chamber of Commerce and Industry (TTCI)

Free call statewide 1300 559 122

Southern Office

Industry House, 309 Liverpool Street, Hobart 7000

GPO Box 793 Hobart TAS 7001

Phone: 03 6236 3600

Fax: 03 6231 1278

Email: admin@tcci.com.au

Northern Office

Level 1, 111 St John Street, Launceston TAS 7250

PO Box 1490 Launceston TAS 7250

Phone: 03 6331 1144

Fax: 03 6334 6400

Email: laun@tcci.com.au

Fair Work Commission

1st Floor, Commonwealth Law Courts,

39–41 Davey Street,

Hobart, 7000

GPO Box 1232M, Hobart, 7001

Phone: 6214 0200

Fax: 6214 0202

Out of hours emergency: 0418 124 021

Email: hobart@fwc.gov.au

Fair Work Ombudsman

Southern Office

Level 3,

142-146 Elizabeth Street,

Hobart, 7000

GPO Box 9887, Hobart, 7001

Phone: 13 13 94

Fax: 1800 618 366

Web: <http://www.fairwork.gov.au>

Northern Office

Ground Floor Transit Centre,

Cornwall Square,

Launceston, 7000

GPO Box 9887, Hobart, 7001

Phone: 13 13 94

Fax: 1800 618 366

Web: <http://www.fairwork.gov.au>

Workplace Standards Tasmania

Hobart – 30 Gordon’s Hill Road, Rosny Park
Launceston – 3rd Floor, Henty House, 1 Civic Square
Burnie – 3rd Floor, Reece House, 46 Mount Street
PO Box 56
Rosny Park TAS 7018
Phone: 1300 366 322
Fax: 03 6233 8338
Email: wstinfo@justice.tas.gov.au

Australian Services Union (ASU)

Hobart Office
265 Macquarie Street
Hobart TAS 7000
Phone: 6224 3411
Fax: 03 9342 3498
Email: info@asuvictas.com.au

Launceston Office
237 Wellington Street
Launceston TAS 7250
Phone: 1300 855 570
Fax: 03 9342 3498
Email: info@asuvictas.com.au

Health and Community Services Union (HACSU)

Postal Address
PO Box 635
North Hobart
TAS 7002
Phone: 1300 880 032
Email: assist@hacsutas.net.au

Hobart Office
11 Clare Street, New Town TAS 7008
Fax: 6231 4142

Launceston Office
91 Paterson Street, Launceston TAS 7250
Fax: 6331 4309

Devonport Office
80 Oldaker Street, Devonport TAS 7310
Fax: 6424 6808