
Title: Equal Opportunity - Policy

Target Audience: All BRHS Staff

PURPOSE:

The purpose of this Policy/Guideline is to outline Bairnsdale Regional Health Services' approach to ensuring the organisation complies with its obligations as an Equal Opportunity Employer.

POLICY

Bairnsdale Regional Health is committed to providing a safe, respectful and non-discriminatory environment for staff and patients/residents free from all forms of discrimination, bullying, sexual harassment, and occupational violence, racial and religious vilification.

This policy covers:

- [Discrimination](#)
- [Harassment](#)
- [Bullying](#)
- [Occupational Violence](#)
- [Sexual Harassment](#)
- [Racial and Religious Vilification](#)

This policy applies to:

- board members
- all staff, including: chief executive officer, directors, managers and supervisors; full-time, part-time or casual, temporary or permanent staff; job candidates; student placements, apprentices/trainees, contractors, sub-contractors and volunteers
- how BRHS provides services to patients/residents and how it interacts with other members of the public
- all aspects of employment including recruitment and selection practices; conditions and benefits; training and promotion opportunities; task allocation; shifts; hours; leave arrangements; workload; equipment and transport
- on-site, off-site or after hours work; work-related social functions; and activities including external training courses, conferences and seminars attended by or facilitated by BRHS representatives.
- staff treatment of other staff, of patients/residents, and of other members of the public encountered in the course of their BRHS duties.

Staff rights and responsibilities

Employees have a duty under Section 25 of the OHS Act to take reasonable care of their own health and safety and that of others. They must comply with any action taken by their employer to comply with the OHS Act. Section 25 also prohibits employees from wilfully or recklessly interfering with, or misusing, anything provided in the interests of health and safety. In addition they must not wilfully place at risk the health and safety of any person in the workplace.

Employees shall respect the rights of co-workers, patients, residents, clients and visitors and comply with the provisions of this policy and accompanying policies. Employees shall be notified in writing to observe the policies and procedures of conduct in the workplace on commencement of employment and shall have access to the policies and procedures of the organisation relating to equal opportunity, bullying and intimidation.

The Occupational Health and Safety Act 2004 (OHS) imposes legal responsibilities on employers and employees. Employers and employees have a responsibility to establish and maintain a safe and

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healthy workplace free from bullying and intimidation, and to ensure that all individuals are treated fairly and are not subjected to bullying and intimidation.

In addition, all staff are entitled to:

- recruitment and selection decisions based on merit and not affected by irrelevant personal characteristics
- work free from discrimination, bullying, sexual harassment, and racial and religious vilification
- the right to raise issues or to make an enquiry or complaint in a reasonable and respectful manner without being victimised (refer to: *Grievance Resolution Policy*).
- reasonable flexibility in working arrangements, especially where needed to accommodate their family and carer responsibilities, disability, religion and culture (see *Flexible Work Arrangements Policy*).

All staff shall:

- follow the standards of behaviour as outlined in their position description and in accordance with organisational principles and trademark behaviours.
- avoid gossip and respect the confidentiality of the organisation's grievance resolution procedures and disciplinary processes.
- treat everyone with dignity, courtesy and respect.

Additional responsibilities of managers and supervisors

Managers and supervisors must also:

- take steps to educate and make staff aware of their obligations under this policy
- intervene quickly and appropriately when they become aware of inappropriate behaviour
- act fairly to resolve issues and enforce workplace behavioural standards, making sure relevant parties are heard
- help staff resolve complaints informally
- refer formal complaints about breaches of this policy appropriately for investigation
- ensure staff who raise an issue or make a complaint are not victimised
- ensure that recruitment decisions are based on merit and that no discriminatory requests for information are made
- make reasonable adjustments in the workplace to accommodate the physical requirements of a potential staff member with a disability or special need.
- consider requests for flexible work arrangements.

Resolving equal opportunity issues

BRHS strongly encourages any staff member who believes they have been discriminated against, bullied or harassed, sexually harassed, vilified or victimised to take appropriate action as per the Grievance Resolution policy.

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Staff who do not feel safe or confident to take such action independently may seek assistance from the Workforce Capability and Culture department for advice and support.

On 1 January 2014, amendments to the Fair Work Act 2009 came into effect allowing employees who believe they are being bullied to apply to the Fair Work Commission to have the bullying stopped. It should be noted that this application should be made only after attempts have been made to resolve the situation via the BRHS Grievance Resolution Process.

An employee has the right to take a complaint to the Equal Opportunity Commission or Human Rights and Equal Opportunity Commission at any time. The Equal Opportunity Commission or Worksafe Victoria may be contacted for confidential advice.

Further information about equal opportunity in the workplace can be obtained from:

- BRHS Director or Manager
- People and Culture department
- Occupational Health and Safety Officer

UNACCEPTABLE WORKPLACE CONDUCT

The following behaviours are unacceptable in BRHS and may be against the law. Staff found to have engaged in such conduct may be counselled, warned or disciplined. Severe or repeated breaches can lead to formal discipline up to and including dismissal.

DISCRIMINATION

Discrimination is treating, or proposing to treat, someone unfavourably because of a personal characteristic protected by the law (refer to list below).

Discrimination can occur:

Directly, when a person or group is treated unfavourably because of a personal characteristic protected by law.

Indirectly, when an unreasonable requirement, condition or practice is imposed that has, or is likely to have, the effect of disadvantaging people with a personal characteristic protected by law.

Protected personal characteristics in Victoria include:

- a disability, disease or injury, including work-related injury
- parental status or status as a carer
- race, colour, descent, nationality, ancestry or ethnic background
- age
- sex
- employment activity, eg asking questions or raising concerns about work rights or entitlements at work
- industrial activity, including being a member of an industrial organisation such as a trade union or taking part in industrial activity, or deciding not to join a union
- physical features
- religious belief or taking part in religious activity, or not holding a religious belief
- pregnancy and breastfeeding
- lawful sexual activity

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- sexual orientation or gender identity,
- marital status,
- political belief or political activity
- an association with someone who has, or is assumed to have, one of the above characteristics.

HARASSMENT

Unlawful harassment can be based on any of the prohibited grounds of discrimination (as listed above). Harassment is any form of unwelcome behaviour which may involve inappropriate actions, comments or physical contact that is objectionable or causes offence. Harassment may be seen to have occurred if the behaviour makes a person feel:

- humiliated and offended,
- intimidated or frightened; and/or
- uncomfortable at work

Harassment is considered to be repeated behaviour. Harassment can often be the result of behaviour that is not intended to offend or harm, however the fact that it is unintentional does not mean that it is not unlawful.

Harassment takes many forms and may include (but is not limited to):

- jokes, derogatory comments, offensive messages by telephone, email etc with reference to age, race, disability or sex.
- displays of offensive material such as posters, pictures, publications, screensavers or messages;
- insults, taunts, teasing or name-calling;
- unwelcome comments about a physical appearance, or remarks of an offensive nature;
- physical molestation or assault (which are also criminal offences).
- subjecting (or threatening to subject) a person to detriment because he or she has or intends to:
 - Make a complaint
 - Be a witness
 - Act in good faith in bringing information or an allegation or;
 - Refuse to contravene the legislation

BULLYING

Bullying occurs when:

- A person or a group of people **repeatedly** behaves unreasonably towards a worker or a group of workers at work.

AND

- The behaviour causes a risk to health and safety.

Bullying behaviour may involve any of the following types of behaviour:

- Aggression or intimidating conduct
- Belittling or humiliating comments

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- Spreading malicious rumours
- Exclusion from work-related events
- Unreasonable work expectations including too much or too little work below or beyond a worker's skill level
- Displaying offensive material
- Pressure to behave in an inappropriate manner
- Verbal abuse, sarcasm and other forms of demeaning language
- Psychological harassment
- Intimidation
- Deliberately changing work rosters to inconvenience particular employees
- Deliberately withholding information that is vital for effective work performance
- Unreasonable refusal of requests for leave, training or other workplace benefits.

This behaviour must be repeated and unreasonable and create a risk to health and safety in order for it to be bullying.

Bullying and intimidation is unlawful during any work-related event, including conferences, work functions, office Christmas parties and business trips.

A single incident of inappropriate behaviour does not constitute bullying.

REASONABLE MANAGEMENT ACTION

Bullying does not include management action carried out in a reasonable manner.

Reasonable management action may include:

- Performance management processes
- Disciplinary action for misconduct
- Informing a worker about unsatisfactory work performance or inappropriate behaviour
- Directing a worker to perform duties in keeping with their job
- Maintaining reasonable workplace goals and standards.

OCCUPATIONAL VIOLENCE

Where there is an incidence of occupational violence an incident via Riskman must be lodged. In addition, depending on the scale and severity of the incident, appropriate actions may be:

- Provide first aid and medical treatment
- Giving persons involved the option of being relieved of their duties
- Offer debriefing or counselling to targets of violence and witnesses
- Review control measures and, if necessary, conduct further risk assessments and implement further controls to prevent a recurrence
- Notify the Victorian WorkCover Authority
- Notify the police in circumstances where criminal acts of violence have taken place

SEXUAL HARASSMENT

Sexual harassment is a specific and serious form of harassment. It is unwelcome sexual behaviour, which could be expected to make a person feel offended, humiliated or intimidated. Sexual harassment can be physical, spoken or written. It can include:

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- comments about a person's private life or their appearance
- 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 meet outside of work
- requests for sex
- sexually-explicit emails, text messages or posts on social networking sites.

Sexual harassment includes incidents which occur at work, at work-related events, between people sharing the same workplace, or between colleagues outside of work.

All staff and volunteers have the same rights and responsibilities in relation to sexual harassment.

A single incident is sufficient to constitute sexual harassment.

All incidents of sexual harassment require employers and managers to respond quickly and appropriately.

RACIAL AND RELIGIOUS VILIFICATION

Vilification is behaviour that encourages others to hate, disrespect, or abuse a person or group of people because of their race or religion.

This includes spoken, written, online or physical behaviour towards a particular race or religious group that encourages others to ridicule them, be hateful or violent towards them, damage their property, or make false claims against them.

It is also against the law to give permission or help someone to vilify others, for example by publishing or distributing information about them.

VICTIMISATION

BRHS has a zero tolerance approach to victimisation. Victimisation is subjecting or threatening to subject someone to a detriment because they have asserted their rights under equal opportunity law, made a complaint, helped someone else make a complaint, or refused to do something because it would be discrimination, sexual harassment or victimisation.

It is also victimisation to threaten someone (such as a witness) who may be involved in investigating an equal opportunity concern or complaint.

Victimisation is a very serious breach of Equal Opportunity policy and associated legislation and is likely (depending on the severity and circumstances) to result in formal discipline against the perpetrator.

EVALUATION:

This policy will be reviewed in line with legislative changes or changes to Enterprise Agreements in operation at BRHS. Where no changes occur in a two- year period, the policy will be reviewed to ensure it fits the requirements of the organisation.

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KEY WORDS:

Bullying, Discrimination, Sexual Harassment, Victimisation, Harassment

ASSOCIATED DOCUMENTATION:

[Records Management Policy](#)
[Grievance Resolution Policy](#)
[Workplace Investigation into Employee Grievances Guidelines](#)
[Code of Conduct incorporating Principles and Trademark Behaviours](#)
[Recruitment, Selection and Appointment](#)
[Volunteer Recruitment and Support](#)
[Return to Work Policy](#)
[Disciplinary Process](#)
[Staff Fitness for Work Policy](#)
[Flexible Work Arrangements Policy](#)
[Aggression and Violence Prevention Policy](#)

KEY LEGISLATION, ACTS and STANDARDS:

[Equal Opportunity Act 2010](#) (Vic)
[Workplace Gender Equality Act 2012](#) (Cth)
[Age Discrimination Act 2004](#) (Cth)
[Disability Discrimination Act 1992](#) (Cth)
[Human Rights and Equal Opportunity Commission Act 1986](#) (Cth)
[Racial Discrimination Act 1975](#) (Cth)
[Racial and Religious Tolerance Act 2001](#) (Vic)
[Sex Discrimination Act 1984](#) (Cth)
[The Racial Hatred Act 1995](#) (Cth)
[Multicultural Victoria Act 2004](#) (Vic)
[Public Administration Act 2004](#) (Vic)
[Occupational Health and Safety Act 2004](#) (Vic)
[Fair Work Act 2009](#) (Cth)

REFERENCES:

[Victorian Equal Opportunity & Human Rights Commission](#)
[Commonwealth Human Rights and Equal Opportunity Commission](#)

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COMMITTEE FOR ENDORSEMENT: Operational Executive (21 September 2017)

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DEFINITIONS:

Word	Definition
Nil	

Approved By: Chief Executive Officer