

BULLYING AND HARASSMENT POLICY

Policy

Bethany Kindergarten Services (BKS) recognises the right of all staff to work in an environment that is harmonious and free of harassment and bullying. BKS is committed to providing a healthy and safe working environment for all staff, volunteers and students, free from bullying, discrimination, harassment and sexual harassment. BKS considers bullying and harassment unacceptable forms of behaviour that will not be tolerated under any circumstances.

BKS Statement of Commitment to Child Safety

BKS is committed to child safety. We want children to be safe, happy and empowered. We have zero tolerance of child abuse. We understand our legal and moral obligations to treat concerns seriously and report allegations, safety and wellbeing concerns to authorities. We are committed to the cultural safety of all children including Aboriginal children, children from culturally and/or linguistically diverse backgrounds, and to providing a safe environment for children with a disability.

Scope

This policy applies to all Board Members, employees, volunteers and contractors of BKS.

Definitions

Workplace bullying is repeated, unreasonable behaviour directed towards an employee or group of employees that creates a risk to health and safety. It can be both obvious (direct) and subtle (indirect).

Common forms of bullying include:

- Spreading gossip or false rumours about a person
- Yelling, screaming, offensive language, insults, inappropriate comments about appearance, personal life or lifestyle, slandering a person or their family
- Sabotaging a person's work such as hiding documents or equipment, withholding important messages, damaging or altering completed work
- Humiliating a person through sarcasm, criticism and insults in front of others
- Excessive scrutiny of an employee's work or whereabouts
- Regularly denying opportunities for training needs or promotion without giving clear reason
- Ignoring and/or not speaking to a person
- Socially isolating a person by limiting social and professional contact at work
- Dangerous "practical jokes"
- Threats of dismissal or severe punishment for minimal incidents outside disciplinary procedures
- Teasing or regularly being made the brunt of jokes.

Reasonable management actions carried out in a fair way is not inappropriate.

Workplace bullying is not:

- Setting performance goals, standards and deadlines
- Allocating work to a worker
- Rostering and allocating working hours

- Transferring a worker
- Deciding not to select a worker for promotion
- Informing a worker about unsatisfactory work performance
- Informing a worker about inappropriate behaviour
- Performance managing processes
- Constructive feedback
- Requesting information from a worker regarding incidents, injury or return to work plans and programs
- Poor or bad management practices
- Grievances about legitimate and reasonable performance and management processes, disciplinary action, or allocation of work in compliance with the agencies systems and processes
- Implementation of organisational change/downsizing.

Harassment A person unlawfully harasses another person if he or she makes that other person (another employee or member of the public) feel offended, humiliated or intimidated because of one of the protected attributes under Victorian law. It may involve inappropriate actions, behaviour, comments or physical contact that is objectionable or causes offence.

Unreasonable behaviour is behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine, threaten, degrade, offend or intimidate another person.

Sexual harassment is unwelcomed and unreciprocated conduct of a sexual nature that is reasonably likely in the circumstances to offend, insult, humiliate or intimidate another person. Sexual harassment is any deliberate verbal or sexual conduct that is unwelcome and uninvited. It has nothing to do with mutual attraction or genuine affection between people. Such friendships, whether sexual or not, are a private concern. Sexual harassment may include such actions as:

- Leering, patting, pinching, touching or unnecessary familiarity
- Persistent demands for sexual favours or outings
- Displays of offensive posters, pictures or graffiti
- Dirty jokes, derogatory comments, offensive written messages, or offensive telephone calls.

If such behaviour makes you feel offended and humiliated, intimidated and frightened or uncomfortable in the work environment, then it is against the law.

Employee Responsibilities

Employees, volunteers or students who experiences or observes bullying, harassment or sexual harassment are encouraged to report it.

Employees are responsible for monitoring and avoiding practices, attitudes and traditions that lead to bullying and harassment.

Employees can access the Employee Assistance Program for support at any time throughout this process.

Line Manager Responsibilities

Line Managers are required to ensure that all employees are treated fairly and equitably.

Line Managers will ensure that complaints are handled promptly, seriously and confidentially with due sensitivity to the needs of the parties involved.

Line Managers have a leadership role in taking appropriate action in circumstances where they become aware of existing or possible bullying or harassment.

Line Managers have a responsibility to take all reports seriously and to provide support to staff affected throughout the entire resolution process.

Procedure

To minimise the risks associated with workplace bullying and harassment is to identify and assess the potential for bullying and then put systems in place to eliminate or reduce the likelihood of workplace bullying or harassment.

Employees who experience bullying or harassment are encouraged to report it to their Line Manager in the first instance. If unavailable, or inappropriate, the Managing Director is to be consulted. When bullying or harassment is reported, it will be seen as a serious matter and will be investigated in a timely manner.

Reports of bullying or harassment will be treated seriously and investigated promptly in a sensitive, thorough and confidential manner ensuring that complainants and witnesses are not victimised.

In all approaches, the employee affected by the behaviour needs to be satisfied that their concerns have been dealt with and resolved.

Direct Resolution - Informal

The options for resolving a complaint of bullying or harassment will vary on a case-by-case basis according to the seriousness and other circumstances.

Strategies for resolution can include:

- Gaining a commitment from the offender to cease the behaviour
- Provide mediation between the parties if appropriate
- Offer support and counselling to the victim and offender
- Provide training (e.g. communication skills, diversity awareness, inter-personal skills)
- Require an apology, where willing/appropriate
- Discipline the offender.

Employees are responsible for speaking with the alleged offender to object to the behaviour by making a clear polite request for the behaviour to stop. The request should be verbal and non-confrontational. This should only occur if the employee feels comfortable in talking directly to the alleged offender.

If the behaviour does not cease, employees are responsible for reporting incidents of alleged harassment or bullying to the Line Manager. This can be initially verbal, however a document written by the employee will be required within 2 working days of the complaint being raised. The Line Manager will co-ordinate the best response.

When a report of workplace harassment or bullying is lodged, the Line Manager will complete the following steps in a timely manner:

- Determine the nature and severity of the problem
- Ensure confidentiality at all times
- Apply the most appropriate resolution method
- Once the situation has been resolved, document and record the outcome and monitor for future occurrences. All documentation is to be reviewed by the BKS Managing Director and then forwarded to HR and placed on each personnel file. The Managing Director will examine the underlying risk factors that may have contributed to the harassment and bullying and attempt to remove them.

Access to external counselling will be made available through the Employee Assistance Program at any time throughout this process.

If the complaint is substantiated the Line Manager will:

- Decide on immediate and appropriate steps to prevent the behaviour from recurring

- Advise Managing Director of the results and proposed course of action to take
- Tell both parties of the decision and the reasons for it
- Note the complaint and the resolution on the harasser's personnel file. Harassers should be told they might add their comments.

Ensure that solutions do not cause the harassed person to suffer. For example, if someone is to be transferred to another work area, it should be the offender and not the harassed person, unless s/he requests it.

Any solution should take into account the wishes of the harassed person. The following outcomes may be appropriate:

- A public or private written or verbal apology
- Transfer the harasser to another job
- Transfer the complainant to another job if requested
- Removal from the complainant's personnel file of any detrimental comments on work performance that relate to the period of harassment.

Mediation Resolution - Informal

A meeting will be held involving the employee affected by the bullying and harassment and the alleged offender to settle the issue with as little conflict and stress as possible. BKS will contract an independent and impartial mediator who will be present and will assist staff to discuss the incident and come to an agreed outcome.

Participation in mediation is voluntary and either party can withdraw at any time. It is recommended that the Line Manager for each party is also present.

The Line Manager will demonstrate impartiality and support for both parties and coach both parties to ensure no further incidents occur.

Once this has been resolved, document and record the outcome.

Formal Resolution

This approach is steered by an independent third party. It involves separate interviews with the staff member affected, the alleged offender, any witnesses and other relevant staff.

After the investigation a recommendation is made to the CEO who then makes a decision for further action.

Lodging a complaint

Employees may decide to get advice from or lodge a complaint with the Commissioner for Equal Opportunity.

Employees should keep notes of all incidents – date, time, place, witnesses, what was said or done. This will be valuable information if you decide to take the matter further.

Complaints must be made within twelve months of the alleged act of harassment.

The Commissioner can investigate a complaint, and has the power to order both parties to attend a conciliation conference. This process is confidential and aims to settle the complaint as informally as possible.

A successful conference can result in both parties reaching an agreement that can include a number of outcomes such as a written apology, financial compensation.

If conciliation fails, the complainant can request that the case be referred to the Equal Opportunity Board, which can hand down a legally enforceable decision. The Board has the power to award damages against the employer, supervisor and the harasser if the complaint is substantiated.

Employees will not be disadvantaged in their employment conditions or opportunities as a result of lodging a complaint.

Employees may choose to go to their unions for advice and assistance.

Discipline

No papers relating to a sexual harassment complaint will be placed on the complainant's personnel file.

The harasser may be disciplined by:

- Transfer to another position but with no job advantage
- Warning and counselling on misconduct
- Closer supervision of conduct
- Suspension
- Dismissal

Action must be based on confidential and impartial investigation.

Discipline should be appropriate to the severity of the offence and any disciplinary action taken must take account of and comply with industrial legislation, awards and industrial agreements covering the conditions of employment in the Agency.

Confidentiality

Information on the allegations should only be accessible to people whose job it is to deal with complaints. These may include – the alleged harasser, relevant Line Managers, any witnesses, employees necessarily involved in the investigation of the complaint (eg someone preparing the report), the appropriate union delegate, senior management.

Written records should be kept to a minimum to establish the facts and all documents must be kept secure.

Further Information

Further information is available from the following organisations.

Australian Human Rights Commission

www.humanrights.gov.au

Complaints Info Line: 1300 656 419

Enquiries: 1300 369 711

Victorian Equal Opportunity and Human Rights Commission

www.humanrightscommission.vic.gov.au

Enquiries: 1300 292 153

Work Safe Victoria

www.workcover.vic.gov.au

Enquiries: 1800 136 089

Relevant Legislation and Standards

- Fair Work Act 2009
- Occupational Health and Safety Act 2004
- Social, Community, Home Care and Disability Services Industry Award 2010

- Victorian Equal Opportunity Act 2004
- Work Safe Victoria – Bullying guidelines

- *Early Childhood Management Manual*, ELAA
- *Getting into the Act*, WorkSafe Victoria
- *Getting help to improve health and safety*, WorkSafe Victoria
- *Guide to the OHS Act 2004*, WorkSafe Victoria
- *Managing safety in your workplace*, WorkSafe Victoria
- OHS in Early Childhood Services (ELAA): www.ohsinecservices.org.au
- WorkSafe Victoria: www.worksafe.vic.gov.au

BKS Related Policies

- *Child Safe Environment Policy*
- *Code of Conduct Policy*
- *Emergency and Evacuation Policy*
- *Incident, Injury, Trauma and Illness Policy*
- *Participation of Volunteers and Students Policy*
- *Privacy and Confidentiality Policy*
- *Staffing Policy*