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| **POLICY NO & NAME:** | **012 – WORKPLACE BULLYING & HARASSMENT** |
| **APPROVED BY:** | **Bec Symes, CEO** |
| **DATE CURRENT POLICY APPROVED:** | 22/01/2019 |
| **REVISION DATE/S:** | 22/01/2019 |
| **DATE CREATED** | 22/01/2019 |

**POLICY STATEMENT**

Greendale Community is committed to providing a positive working environment free from bullying and harassment. Greendale Community will not tolerate threatening behaviour and this includes intimidation, bullying, harassment, physical violence, victimisation and isolation in the workplace.

**SCOPE & PURPOSE**

To create an awareness and to minimise the risk of bullying and harassment in the work environment.

**DEFINITIONS**

**An authorised person** is therelevant Manager or the Chief Executive Officer.

**A reasonable person** is defined as an objective third party.

**Bullying and Harassment** in the workplace can take place between:

* a worker and a manager (or team leader);
* co-workers;
* a worker and another person in the workplace, eg. a service user.

**Debriefing** focuses on supporting the employee member, providing them with an opportunity to talk through the incident, in a supportive, valuing environment. The aim of debriefing is to assist the staff member to cope with any issues that may flow from the incident.

**Stalking Offence**

On the 1st June 2011 the Victorian government extended the definition of the Stalking Offence (Crimes Act 1958) to include the type of behaviours that are typical of workplace bullying. This will be known as “Brodies Law”

**RESPONSIBILITIES**

Everyone in the workplace has a responsibility to ensure that the workplace is free of any harassment, discriminatory or bullying behaviour.

Greendale Community is responsible for providing a workplace that promotes the health and well being of all employees.

Employees have duties under section 25 of the OHS Act to take reasonable care of their own health and safety, and the health and safety of others in the workplace. They must cooperate in any action taken by their employer to comply with measures ensuring health and safety.

This policy complies with the following legislation:

### Federal jurisdiction:

* The Comm. Human Rights and Equal Opportunity Commission Act 1986
* The Commonwealth Sex Discrimination Act 1984
* The Commonwealth Disability Discrimination Act 1992
* The Commonwealth Racial Discrimination Act 1975
* The Commonwealth Disability Discrimination Act 1992
* Workplace Gender Equality Act 2012(**WGE Act**)
* Age Discrimination Act 2004
* Fair Work Act 2009

### State jurisdiction:

* The Victorian Equal Opportunity Act 2010
* Racial and Religious Tolerance Act 2001
* Charter of Human Rights and Responsibilities 2006
* Occupational Health and Safety Act 2004
* Crimes Act 1958 (including ‘Brodie’s Law’)

Managers, team leaders and coordinators must ensure all employees are treated fairly and are not subject to any form of harassment and must treat reports of possible harassment seriously and sympathetically and investigate reports thoroughly. They also must ensure that no one is disadvantaged or victimised as a result of a harassment complaint being made or investigated.

The procedure for complaints of harassment will be followed in line with Greendale Community Grievance Policy. The complaint will be addressed with speed, sensitivity, confidentiality, professionalism and consistency. Once all information has been gathered and all parties have been consulted, the employee’s team leader and program manager will make a collective decision on whether, on the balance of probabilities, the complaint is sustained.

Irrespective of the findings of the investigation, the decision will be communicated to all relevant parties, together with an appropriate explanation

**Harassment**

Harassment is any form of behaviour that is***not wanted, not asked for and not returned***

and makes the receiver feel:

* humiliated
* offended
* intimidated.

Harassment can take many shapes and can involve actions, comments, behaviour or physical contact. Under federal and state legislation, unlawful harassment occurs when someone is made to feel intimidated, insulted or humiliated because they have any of the characteristic specified under anti-discrimination or human rights legislation.

Harassing behaviour can range from serious to a less serious nature, however one-off incidents can still constitute harassment:

* unwanted physical contact, such as touching or fondling
* suggestive behaviour, such as leering or ogling
* kissing or embracing someone against their will
* unnecessary familiarity such as deliberately brushing up against someone
* unwanted comments about a person’s sex life or physical appearance
* suggestive remarks, sexual jokes, innuendoes, lewd comments
* sexual propositions or continual requests for dates
* displaying and using offensive objects, written material, pornographic or sexually suggestive pictures
* continual requests for something when the person has made it clear they are not interested in participating.

**Workplace Bullying**

Bullying at work, as defined by the Fair Work Act 2009, occurs when: a person or a group of people behaves unreasonably and repeatedly towards a worker or a group of workers while at work, and. the behaviour creates a risk to health and safety.

Bullying can occur wherever people work together. Under certain conditions, most people are capable of bullying. Because bullying at work is an occupational health and safety hazard, intent is not relevant to the definition.

Bullying has three main features;

1. It involves a misuse of power in a relationship
2. It is ongoing and repeated
3. It involves behaviours that can cause harm.

These behaviours can include:

* verbal abuse
* putting someone down
* spreading rumours or innuendo about someone
* interfering with someone’s personal property or work equipment
* unjustified criticism or complaints
* deliberately excluding someone from workplace activities
* deliberately denying access to information or other resources
* withholding information that is vital for effective work performance
* setting tasks that are unreasonably above or below an employee’s ability
* deliberately changing work arrangements, such as rosters and leave, to inconvenience a particular employee or employees
* setting timelines that are very difficult to achieve
* excessive scrutiny at work.

### Managerial actions

**Reasonable** actions performed in a **reasonable** way are not bullying; examples include:

* setting performance goals, standards and deadlines
* allocating work to an employee
* transferring an employee
* deciding not to select an employee for promotion
* informing an employee about unsatisfactory work performance
* informing an employee about inappropriate behaviour
* implementing organisational changes
* performance management processes
* constructive feedback
* downsizing.

**Other Types of Bullying**

**Reactive or Isolated Incidents of Bullying**

This type of bullying is where stressful circumstances, stemming from personal or workplace issues result in a deterioration of behaviour. In reaction, an employee may become short-tempered and irritable. Where an employee reacts adversely, he or she will often recognise the inappropriateness of their behaviour. The employee should apologise and learn from the experience so that any adverse behaviour is avoided in the future. In some cases, the employee may need to be counselled to understand that their behaviour is not acceptable.

If an employee continues to exhibit inappropriate behaviour over a period of time in response to stress, this behaviour may fall under the general bullying category and appropriate action will be taken.

**Serial Bullying**

This is the most serious type of workplace bullying. Serial bullying is identified when an employee targets a number of employees in succession.

**Bullying and discrimination**

Bullying may also be discrimination if it is because of your age, sex, pregnancy, race, disability, sexual orientation, religion or certain other reasons. Sexual harassment and racial hatred are also against the law.

**Bullying does not include:**

* occasional differences of opinion and non-aggressive conflicts and problems in working relations; or
* workplace counselling, managing under-performance and other action in accordance with the employee’s employment conditions or Greendale Community policies.

Behaviour will only be defined as bullying if a reasonable person observing the situation would consider it to be bullying.

**Responsibilities of Managers, team leaders and coordinators**

Managers, team leaders and coordinators must ensure that all employees understand that bullying is not tolerated in the workplace and must take early corrective action to deal with behaviour that may be offensive or intimidating.

If a manager, team leader or coordinator feels that a reported incident might constitute bullying and feels that the nature of the complaint is outside their expertise, he or she will refer the matter to the Corporate Services Manager.

The prevention of all inappropriate behaviours including bullying requires managers, team leaders and coordinators to:

* be aware of and identify bullying in the workplace
* eliminate inappropriate behaviour regardless of whether a complaint is received about that behaviour
* encourage all employees to behave in accordance with the principles of equal opportunity and anti discrimination
* provide leadership and role modelling in relation to appropriate and professional behaviour in the workplace
* respond promptly, sensitively and confidentially to all situations where inappropriate behaviour is exhibited or alleged to have occurred.

**Responsibilities of Employees**

The prevention of bullying requires employees to be responsible for the following actions as all employees have a moral responsibility to help create a positive, safe workplace:

* be aware of and identify bullying
* behave in accordance with the principles of equal opportunity and anti discrimination
* if bullying behaviour is witnessed or experienced, and the employee feels able, speak with the alleged bully to object to the bullying behaviour
* you can tell the person that is bullied about the steps they can take to solve it
* offer to act as a witness if the person being bullied decides to report the incident
* keep a record or diary of incidents noting what happened, when and the names of witnesses.

An employee who experiences bullying can seek advice and assistance from any of the following contacts:

* senior management
* program manager
* team leader
* coordinator
* occupational health and safety committee member
* union representative
* Victorian Equal Opportunity & Human Rights Commission

Enquiries 1300 292 153 or (03) 9032 3583 (9am–5pm Monday to Friday)

Phone 1300 891 848

Website [http://www.humanrightscommission.vic.gov.au/index.php/about-us/](http://www.humanrightscommission.vic.gov.au/index.php/about-us/contact-us)

* WorkSafe Phone 9641 1444 or 1800 136 089 (toll free)
* Fair Work Australia Phone 1300 799 675 (toll free)

**Complaints Procedure**

Managers, team leaders and coordinators must treat reports of possible harassment and bullying seriously and sympathetically and investigate reports thoroughly. They also must ensure that no one is disadvantaged or victimised as a result of a bullying complaint being made or investigated.

The procedure for complaints of bullying will be followed in line with the Greendale Community Grievance Policy. The complaint will be addressed with speed, sensitivity, confidentiality, professionalism and consistency. Once all information has been gathered and all parties have been consulted, the employee’s program manager will make a collective decision on whether, on the balance of probabilities, the complaint is sustained.

Irrespective of the findings of the investigation, the decision will be communicated to all relevant parties, together with an appropriate explanation.

If the complaint is found to have been vexatious, appropriate action may be taken, including counselling, a written apology to the person complained about or disciplinary action depending on the seriousness of the allegations.

Workplace bullying is regarded as a serious breach of conduct and will result in an investigation which, if proven, may result in disciplinary action being taken against the perpetrator, which may include dismissal.

Greendale Community will offer employees an opportunity for debriefing after an incident.

**REFERENCES**

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|  | Reference: | Federal laws: The Comm. Human Rights and Equal Opportunity Commission Act 1986  The Commonwealth Sex Discrimination Act 1984  The Commonwealth Disability Discrimination Act 1992  The Commonwealth Racial Discrimination Act 1975  The Commonwealth Disability Discrimination Act 1992  Workplace Gender Equality Act 2012 (**WGE Act**)  Age Discrimination Act 2004  Fair Work Act 2009 State laws: The Victorian Equal Opportunity Act 2010  Racial and Religious Tolerance Act 2001  Charter of Human Rights and Responsibilities 2006  Occupational Health and Safety Act 2004  Crimes Act 1958 (including ‘Brodie’s Law’) |
|  | Industry Standard reference | DHS Standards  National Standards for Disability Services  National Quality Framework Standards  National Home Care Standards  Aged Care Quality Standards, Ageing and Aged Care  Home Care Standards, Ageing and Aged Care |