

Skillinvest

Equal Employment Opportunity (Discrimination, Harassment, Bullying and Victimisation) Policy

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SKILLINVEST LIMITED
EQUAL EMPLOYMENT OPPORTUNITY (DISCRIMINATION, HARASSMENT, BULLYING & VICTIMISATION)
POLICY

Introduction:

Skillinvest values and promotes diversity and inclusion, and aims to provide equality to all workers by treating all individuals equally, with dignity and respect. Skillinvest aims to ensure the workplace is free from all forms of discrimination, harassment, sexual harassment, bullying and victimisation (collectively “**Unacceptable Behaviour**”) and takes all reasonable steps to ensure all employees are aware of their obligations in this regard.

Skillinvest aims to create and sustain a work environment that supports and assists each individual to reach their maximum potential. At Skillinvest we recognise the benefits of equality in the workplace and aim to achieve this objective by taking steps such as educating and training employees, as well as monitoring and managing unacceptable behavior.

Unacceptable Behaviour is unlawful pursuant to State and Federal legislation. Under legislation, Skillinvest must take all reasonable steps to provide a workplace that is free from unacceptable behaviour. Workers also have an obligation not to engage in unlawful unacceptable behaviour and ensure they adhere to Skillinvest policies.

Application

This policy applies to all workers, including full-time, part-time and casual employees, as well as temporary staff, contractors and consultants employed or engaged by Skillinvest. The policy also applies to the Board of Directors, visitors and other personnel present on Skillinvest work premises or using its facilities.

The policy applies at all times where there is a relevant connection with the workplace, it is not restricted by hours of work or other time or place considerations. For example, the policy applies to work related functions including social functions that are held outside the workplace and outside of work hours.

Equal opportunity applies to all aspects of the employment relationship, including: recruitment, promotion, employee benefits, conditions of employment, remuneration, transfer, discipline, training, work environment, supervision, and termination of employment.

Policy

1.1.1 Responsibility

All workers have a responsibility to treat colleagues, customers, visitors and anyone else present at or associated with Skillinvest, with fairness, dignity and respect, and understand and comply with this policy, so that the working environment is free from unacceptable behaviour. All workers are responsible for ensuring they don't adversely affect the health and safety of others.

Employees have a responsibility to:

- Follow the standards of behaviour outlined in this policy;
- Adhere to all Skillinvest policies and undertake training as directed.
- Treat everyone with dignity, courtesy and respect.
- Avoid gossip and respect the confidentiality of complaint resolution procedures.

Managers have a responsibility to:

- Lead by example, model appropriate behavior and ensure that they do not engage in unacceptable behaviour;
- Manage the health and safety risks of employees;
- Take all reasonable steps to prevent harassment, sexual harassment and bullying in the workplace;

- Promote this policy within their work area and act upon any unacceptable behaviour in breach of this policy;
- Ensure staff who raise an issue or make a complaint are not victimised;
- Ensure that recruitment decisions are based on merit;
- Treat all complaints seriously and take prompt steps to resolve any complaints made under this policy. This may include referring the matter to the CEO where appropriate.

1.1.2 Discrimination

What is Discrimination?

Skillinvest is committed to maintaining a workplace that promotes equal opportunity for all who work with Skillinvest. Skillinvest aims to ensure that all decisions about employment (including recruitment, terms and conditions, promotions, leave and training) are made based on merit and do not involve discrimination.

It is unlawful to discriminate against a person on the basis of a range of attributes or personal characteristics protected by law (“**the Attributes**”).

Unlawful discrimination also occurs when there is a **requirement, condition or practice** that is the same for everyone but **disadvantages a person** because they have one or more of the following protected Attributes.

It is unlawful to discriminate on the basis of the following characteristics:

- Age
- Status as a Parent or Carer
- Breastfeeding
- Physical Features
- Disability
- Pregnancy
- Employment Activity
- Race
- Gender Identity
- Sex
- Industrial Activity
- Sexual Orientation
- Lawful Sexual Activity
- Political or Religious Beliefs or Activities
- Marital Status
- Association with someone with above attributes

Anti-discrimination legislation prohibits both direct and indirect discrimination:

- Direct discrimination means treating a person with a protected Attribute less favourably than a person who does not have that Attribute in the same or similar circumstances. For example, if an employer does not hire someone because they are a woman. This is direct discrimination.
- Indirect discrimination means imposing or proposing to impose an unreasonable requirement, condition or practice that disadvantages one particular group because of a protected Attribute (such as their race). For example, an employer who requests a person over 180cm tall to do a certain job could be indirectly discriminating against certain groups of people if it can be shown that the job can be done effectively regardless of height.

It is the responsibility of every worker to ensure that they do not engage in unlawful discrimination. In addition, it is important to note that from a legal perspective it is irrelevant whether or not the discrimination was intended.

1.1.3 Harassment

Harassment occurs when someone engages in **unwelcome conduct that results in a person feeling offended, humiliated or intimidated**, and under the circumstances, it would be reasonable for them to feel this way.

Harassment may occur as a single act or as a series of incidents.

A person unlawfully harasses another person if he or she engages in behaviour that:

- is not wanted or asked for;
- a reasonable person would have anticipated that they may make the other person feel offended, humiliated or intimidated; and
- is because of one of the protected Attributes.

Harassment is unacceptable and constitutes a denial of equality in the workplace.

It is important to note that from a legal perspective it is irrelevant whether or not the harassing behaviour was intended.

Harassment may involve inappropriate actions, behaviour, comments or physical contact that is objectionable or causes offence. Behaviours that may constitute harassment include, but are not limited to:

- jokes, innuendo, ridicule or verbal abuse;
- insulting comments or jokes about particular racial groups or that stereotype others;
- gestures, sarcasm, criticism and insults that humiliate others;
- threats;
- sending explicit or sexually suggestive emails; and
- making derogatory comments about someone's race or religion.

Advice or counselling on work performance or work related behaviour is not harassment.

1.1.4 Sexual Harassment and Sex Discrimination

Skillinvest will not tolerate unlawful sexual harassment. Sexual harassment is any **unwelcome or unwanted sexual behaviour that is likely to make a person feel offended, humiliated or intimidated**.

Sexual harassment can occur at work or outside the workplace and outside normal business hours. Sexual harassment may occur in a single incident or a series of incidents. Just because someone does not object to the behaviour at the time does not mean that they are consenting to the behaviour.

Sexual harassment can take many forms, it can be physical, written or verbal. Examples of sexual harassment include but are not limited to:

- persistent, unwelcome or even subtle pressures for sexual favours and outings;
- staring or leering at a person or at parts of their body;
- unwelcome patting, pinching, touching or unnecessary familiarity;
- sexually explicit pictures, posters or screen savers;
- sexually explicit telephone calls, letters, faxes, emails or voicemail messages;
- humour such as smutty or suggestive jokes or comments;
- insults or taunts based on sex;
- sexually explicit physical contact; and
- asking intrusive questions about someone's personal life, including their sex life.

Both men and women can be subject to sexual harassment from a person of the same or opposite sex. Mutual attraction or mutually consenting relationships, whether sexual or otherwise, is not sexual harassment. Intent is irrelevant and excuses don't matter.

Unlawful sexual harassment occurs in the workplace when it happens:

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

Sexual harassment does not have to be repeated or ongoing and stopping sexual harassment in the workplace is all employee's responsibility. All employees have the right to a safe workplace that is free from sexual harassment.

The following types of sexual harassment can also be offences under criminal law, such as:

- physical molestation or assault;
- indecent exposure;
- sexual assault;
- stalking; and
- obscene communications.

Sexual harassment will be treated as serious misconduct as referred to in the Fair Work Act and is a valid reason for termination. Skillinvest will take all reasonable steps to prevent sexual harassment in the workplace and encourages employees to report behaviors that are not appropriate.

The Sex Discrimination Act makes it unlawful to discriminate against a person because of their sex, gender identity, intersex status, sexual orientation, marital or relationship status, family responsibilities, because they are pregnant or might become pregnant or because they are breastfeeding. Skillinvest treats all employees fairly and provides the same opportunities for all employees.

1.1.5 Bullying

Bullying is not acceptable in the workplace. It is a significant occupational health and safety issue as it can cause harm to a person's health and wellbeing, both physical and psychological.

Risk to health and safety includes risk to the mental or physical health of the employee. In determining whether the behaviour of an employee constitutes bullying it is irrelevant whether or not the employee is aware of the bullying, and whether or not it is intentional.

Workplace bullying occurs when:

- an individual or a group of individuals **repeatedly behaves unreasonably** towards a worker or group of workers at work; and
- the **behaviour creates a risk to health and safety**.

Repeated behaviour refers to the persistent nature of the behaviour and can refer to a range of behaviours over time.

Unreasonable behaviour is behaviour that a reasonable person, having regard to the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.

Risk to health and safety means the possibility of real danger to health and safety, not just actual danger.

Bullying can include, but is not limited to:

- Physical or verbal abuse
- Spreading malicious rumours or gossip
- Intimidation
- Humiliation through gestures, sarcasm, criticisms or insults
- Psychological harassment
- Unjustified criticism or complaints

- Excluding or isolating people from workplace activities
- Cyber bullying

Other types of behaviour may also constitute bullying.

Occupational violence is not tolerated at Skillinvest. Occupational violence a form of bullying and occurs in situations where workers are physically threatened, attacked or assaulted in the workplace. Examples include:

- Physical attacks
- Throwing objects
- Using weapons
- Indecent contact
- Threatening behaviour

What is **not** Bullying?

Managing workers does not constitute bullying, if it is reasonable and done in a reasonable manner. Managers have the right, and are obliged to, manage their workers. This includes directing the way in which work is performed, undertaking performance reviews and providing feedback (even if negative) and disciplining and counselling workers.

Examples of reasonable management practices include:

- setting reasonable performance goals, standards and deadlines in consultation with workers, after considering their respective skills and experience;
- fairly rostering and allocating working hours;
- transferring a worker for legitimate and explained operational reasons;
- deciding not to select a worker for promotion, following a fair and documented process
- ongoing meetings to address underperformance
- denying a worker a benefit in relation to their employment
- refusing an employee permission to return to work due to a medical condition.

A single incident of unreasonable behaviour may create a risk to health and safety and has the potential to escalate into bullying. Therefore, it is not acceptable. A worker with a concern about a single incident of bullying-style behaviour may raise this issue with their Manager or with a more senior worker as appropriate.

1.1.6 Positive Duty

Skillinvest will ensure that it takes all proactive measures to ensure a positive duty towards all workers to eliminate sexual harassment and other forms of harassment and bullying.

All employees are responsible for ensuring that Skillinvest is free from all forms of harassment and bullying and that any inappropriate behaviours or actions are reported to management.

1.1.7 Victimization

Skillinvest will not tolerate unlawful victimisation in the workplace.

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

- Made a complaint of discrimination or sexual harassment
- Helped someone else make a complaint a complaint of discrimination or sexual harassment
- Refused to do something because it would be discrimination, sexual harassment or victimisation

Procedure

Any employee who feels they have experienced unlawful discrimination, harassment, sexual harassment, bullying or victimisation at work are encouraged to raise their concerns. If they feel comfortable doing so:

- they should tell the relevant person that they object to the behaviour and do not want it repeated;
- or report the incident to an appropriate person within Skillinvest. An appropriate person may be a Manager, Coordinator or People and Culture.

All complaints will be treated seriously by Skillinvest and acted upon.

Where a complaint may involve offences under the criminal law (such as sexual assault, indecent exposure or stalking) the matter may be referred to police.

All complaints will be treated seriously and will be dealt with promptly. Skillinvest will, to the extent possible, keep the matter confidential and protect the privacy of the people involved.

Skillinvest believes that all complaints and issues of concern should be resolved quickly, confidentially (where appropriate) and wherever possible, at the lowest appropriate level.

No employee will be penalised or disadvantaged as a result of raising legitimate concerns or complaints relating to unacceptable behaviour. If, however, a complaint is shown to be vexatious or malicious, disciplinary action may be taken against the person who made the complaint.

Related Legislation

Skillinvest has a responsibility to prevent unlawful discrimination, sexual harassment, victimisation and bullying in the workplace under both Commonwealth and state and territory legislation.

In Victoria, this legislation includes:

- *Equal Opportunity Act 2010* (Vic)
- *Racial and Religious Tolerance Act 2001* (Vic)
- *Occupational Health and Safety Act 2004* (Vic)
- *Crimes Act 1958* (Vic)

Commonwealth legislation includes:

- *Fair Work Act 2009* (Cth)
- *Racial Discrimination Act 1975* (Cth)
- *Sex Discrimination Act 1992* (Cth)
- *Disability Discrimination Act 1992* (Cth)
- *Age Discrimination Act 2004* (Cth)

Policy Breach

Any employee, who breaches this policy, knowingly makes false accusations, brings about complaints for malicious, vexatious or frivolous reasons or victimises another employee for making or participating in a legitimate complaint process, may be subject to disciplinary action, up to and including termination of employment.

Related Policies

This policy should be read in conjunction with the following policies:

- Duty of Care and Code of Conduct policy
- Diversity and Inclusion policy
- Occupational Health and Safety policy

- Grievance and Complaints policy

Skillinvest Diversity and Inclusiveness Clause:

Skillinvest values and promotes diversity, fairness and inclusiveness in the workplace and is committed to ensuring workplace diversity and inclusiveness through establishing proactive strategies, policies and procedures. Skillinvest aims to ensure that all employees, clients, business partners and stakeholders are treated with respect, dignity and fairness to ensure Skillinvest promotes inclusiveness and positive working relationships.

Skillinvest is committed to recognising the value of diversity and inclusiveness in the workplace and ensures that work practices promote equal opportunity and are non-discriminatory.