

# **BULLYING and HARASSMENT POLICY**

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## **POLICY STATEMENT**

Lalor Living and Learning Centre Incorporated is committed to providing a workplace that is free from bullying and harassment. All individuals have a right to work in an environment that is safe, free from bullying and harassment, and to be treated with dignity and respect.

- All Lalor Living and Learning Centre managers and supervisors are responsible for actively intervening to prevent and stop any bullying and/or harassing behaviour that is occurring in their workplaces, whether or not a complaint is received (*refer Code of Conduct Policy*)
- Lalor Living and Learning Centre provides procedures by which all individuals can have any complaint of workplace bullying and harassment addressed
- All individuals have a right to use the procedures in this policy if they believe they have experienced bullying and/or harassment under Definitions section in this policy

## **Examples of behaviours that may amount to bullying and harassment include:**

- Intimidation
- Verbal abuse or threats, including yelling, screaming or offensive language
- Excluding or isolating people from workplace activities
- Assigning impossible tasks, meaningless tasks unrelated to the job, or giving someone the majority of unpleasant tasks
- Undermining responsibility
- Deliberately changing work rosters to inconvenience particular staff members
- Withholding information essential to do a task properly
- Copying emails that are critical about someone to others who do not need to know
- Making threats or comments about job security without foundation
- Spreading malicious rumours
- Cyber bullying
- Physical abuse

## **PURPOSE**

Lalor Living and Learning Centre Incorporated acknowledges that bullying and harassment in the workplace falls under the Victorian OHS Act 2004 and the Fair Work Act 2009.

The primary purpose of this policy is to identify bullying and/or harassing behaviour and to take action to prevent its occurrence in the workplace, and to guide Lalor Living and Learning Centre Incorporated's approach and handling as to concerns workplace bullying and/or harassment.

This policy must not be used for the sole purpose of seeking a desired change in work arrangements (such as transfer, alternative duties, and / or reporting lines, etc.) or to receive compensation or any other pecuniary outcome.

This workplace Bullying and Harassment Policy and Procedure is a complete framework for Lalor Living and Learning Centre Incorporated to manage and resolve workplace Bullying complaints. This policy in no way limits an individual's rights, including their access to a State based WorkCover Authority and/or the Fair Work Commission or any other jurisdiction (court or tribunal).

## **SCOPE**

This policy applies to all staff, clients, students, trainers, volunteers and users of Lalor Living and Learning Centre Incorporated in the Lalor and wider community, who are subject to alleged bullying and harassment behaviour or any other behaviour that may constitute a breach of this policy. Nothing in this policy limits the rights of an individual to make a protected disclosure in accordance with the **Protected Disclosures Policy**.

The principles set out in this policy are intended to apply to any work-related context, including conferences, work functions, social events and business trips.

## **CONFIDENTIALITY AND VICTIMISATION**

The parties to a bullying complaint are required at all stages of this policy and procedure, to maintain confidentiality in relation to the concern or complaint. The parties must not disclose, by any form of communication, either the fact or the substance of the allegations or issues to anyone other than an advocate, staff representative or Lalor Living and Learning Centre approved officer.

- a person must not victimise or otherwise subject another person to detrimental action as a breach of either the confidentiality or non-victimisation requirements will be treated seriously by Lalor Living and Learning Centre, and may result in disciplinary action. Any such consequence of that person raising, providing information about, or otherwise being involved in the resolution of a complaint under these procedures
- any breach will be referred for investigation and handling in accordance with the relevant misconduct procedure.

### **Vexatious claims and claims made without reasonable cause:**

Individuals should not raise allegations which are vexatious or without reasonable cause.

Where a claim is determined as vexatious or made without reasonable cause, the individual who raised the complaint will receive written notification of the determination which will include reasons as to why the complaint was deemed as vexatious and/or without reasonable cause.

### **Harassment and Unlawful Discrimination**

Lalor Living and Learning Centre is a learning environment and workplace free from harassment and unlawful discrimination.

#### **All individuals must:**

- respect the person and privacy of students, staff and members of the public
- not engage in offensive behaviour, actions and/or comments
- practice tolerance in all regards and, in particular, in relation to the beliefs and cultural values of students, staff and members of the public

Lalor Living and Learning Centre Incorporated wishes to provide an environment which is free from unlawful discrimination, including harassment. Therefore, all individuals must refrain from any form of unlawful discrimination or harassment based on existing legislative requirements relating to:

- race, colour, ethnicity or Aboriginal and Torres Strait Islander background
- gender or sexuality
- pregnancy or likelihood of pregnancy
- marital status
- status as parent or carer, or family and parental responsibilities (including breastfeeding);
- age
- physical features
- disability or impairment (including, for example, physical disability, mental illness, or medical status)
- HIV status
- political affiliation
- membership or non-membership of an association or organisation of employers or employees and associated activities
- membership of a profession, trade, occupation or calling
- religion
- association with, or relation to, a person identified on the basis of any of the above attributes

Each of these grounds or attributes is covered by legislation in the State of Victoria.

At all times, individuals are required to comply with all applicable anti-discrimination legislation and Lalor Living and Learning Centre Incorporated policies and guidelines on these matters.

## **PROCEDURE**

Individuals should normally raise a claim of bullying and/or harassment with their direct line manager or nominated supervisor, and attempt to resolve such claims locally and informally.

Where the attempt to informally resolve the matter fails or is not appropriate, the staff member must report their attempt to resolve their issue in writing to the Executive Officer. The Executive Officer will then contact them in relation to their grievance.

In the case of all bullying and harassment complaints, Lalor Living and Learning Centre will review the allegations and respond to the individual who raised the complaint.

The procedural requirements of various bullying and harassment resolutions may vary from case to case. Lalor Living and Learning Centre aims to ensure that:

- bullying and harassment complaints are addressed sensitively, promptly and in accordance with relevant Lalor Living and Learning Centre Incorporated's policy and the principles of natural justice
- all reasonable steps are taken to respect the confidentiality of the people involved in a Complaint
- fairness and impartiality prevail throughout the appropriate resolution process - until a

- bullying and/or harassment complaint is investigated and a decision is made, a grievance is an allegation, not a fact
- complainants have the right to determine how the allegation be treated, have support, have representation throughout the process, and/or have the option to discontinue the complaint at stage of the process
- the alleged bully or harasser be given the right to have a support person of their own during the investigating procedure
- appropriate records are maintained throughout the resolution process
- persons who notify a bullying and/or harassment complaint are protected from victimisation or reprisal
- persons who notify a bullying and/or harassment complaint are regularly informed of the progress of the matter and of the consequences of any finding i.e. whether or not the grievance is substantiated
- persons who notify a bullying complaint are also entitled to make a protected disclosure in accordance with the *Protected Disclosures Policy*, provided that the disclosure is of the type that is identified as 'Reportable Conduct' under the Protected Disclosures Policy

Resolution of bullying and harassment complaints should be initiated at local level. That is, before entering into the formal process, the grievant should attempt to resolve the bullying and/or harassment complaint with his or her nominated supervisor, or next most senior Lalor Living and Learning Centre officer.

In the event that the matter is referred for investigation, the investigator will:

- conduct the investigation with due regard to procedural fairness, timeliness, and the individual's safety and well-being
- notify the parties of the investigation
- seek sufficient particulars of the alleged conduct to enable the complaint/concern to be factually investigated
- provide the respondent with a summary of allegations and/or a statement of the alleged conduct
- provide the respondent with an opportunity to respond to the complaint and/or alleged conduct
- interview the parties and, where necessary, any witnesses
- review any relevant documentation
- prepare a report setting out the complaint, how the investigation was conducted, relevant facts, and findings, and present this to the relevant Member or Members of the Executive

The relevant Member or Members of the Executive will then make a decision based on the investigation report as to whether the alleged conduct is proven, proven in part or not proven. The decision, along with a summary of reasons for making the decision and a clear statement of what actions will follow, will be provided to the complainant, and the respondent/s.

If the complaint is dealt with formally, Lalor Living and Learning Centre will aim to ensure:

- before a complaint is investigated, the grievant relevantly describes their allegations (in most instances, but not all, this will need to be in writing), including particulars of the

- allegations so that they can be investigated appropriately
- the person against whom the allegations are made is provided with a copy of the allegations that will be investigated
- all parties are informed in writing of the outcomes of any investigative process

## OUTCOME

Lalor Living and Learning Centre, through its investigation of the complaint and findings of fact under Procedure section of this policy, seeks to prevent the individual from being further bullied and enable normal working relationships to resume.

If a bullying complaint is investigated and findings are made that substantiate any or all of the allegations made, the relevant Member of the Executive may refer the matter to the relevant nominated supervisor in order for them to take appropriate action to prevent any behaviours that are identified as bullying. This may include, but is not limited to:

- Requiring the individual or group of individuals to stop the specified behaviour(s)
- Regular monitoring of behaviours by Lalor Living and Learning Centre
- Requiring compliance with this policy and any other relevant MACE policy
- Provision of information, additional support and training of relevant individuals

Notwithstanding the above, the primary purpose of this policy is to identify bullying behaviour and to take action to prevent its occurrence in the workplace.

## Definitions

As identified in the chart below:

Item	Definition
What is Bullying?	Bullying is defined as repeated and unreasonable behaviour directed towards a person, or a group of people, that creates a risk to health, safety and well-being. Bullying hampers productivity by creating dysfunction and damaging morale within work environments. It includes behaviour (generally a pattern of behaviour) that intimidates, offends, degrades or humiliates another person, including by electronic means such as email, notice boards, blogs and social networking websites.
What is <u>not</u> Bullying?	Reasonable management practices, including performance management and disciplinary procedures: <ul style="list-style-type: none"> <li>• a direction to carry out reasonable duties and instructions; and</li> <li>• a direction to comply with Lalor Living and Learning Centre rules, resolutions and policies.</li> </ul>
Without reasonable cause	A claim is made without there being any real reason, basis in fact(s), or purpose. Such claims include allegations that are: <ul style="list-style-type: none"> <li>• so obviously untenable that the claim cannot possibly succeed</li> <li>• manifestly groundless; and/or</li> <li>• insufficiently particularised.</li> </ul>
Vexatious	Causing or tending to cause or provoke annoyance, frustration, or worry and/or there is another purpose for the grievance other than the settlement of the issues arising in the claim (or response).

Pecuniary	Relating to or consisting of money.
Fair Work Act 2009 (C'wth)	There is an all-encompassing law that makes bullying conduct unlawful with a right to redress workplace bullying through the Fair Work Commission under the Fair Work Act 2009 (C'wth).
OHS Act 2004	While the duty of care of employers under the 2004 OHS Act is more or less the same as what it was under the 1985 Act, the definition of health was amended. The definition of 'health' is now as follows: "health" includes psychological health. This means that the employer must address workplace hazards such as bullying, stress and fatigue. So while there are no regulations, WorkSafe Victoria has guidance on bullying, which is an acknowledged, and serious, hazard in workplaces.
Harassment	Means behaviour that is not wanted and not asked for, and that a reasonable person would have anticipated would cause humiliation, offence or intimidation.
Officer	People who can make decisions, or participate in making decisions that affect the whole, or a substantial part, of a business or undertaking. It is a requirement of Health and Safety legislation that any officer of an organisation must exercise due diligence to ensure that the organisation complies with its health and safety duties. This means they must ensure that the organisation has appropriate systems of work in place and they must actively monitor and evaluate health and safety management within the organisation.

## Related Documents

- Protected Disclosures Policy
- Code of Conduct Policy
- Occupational Health and Safety Policy
- Complaints and Appeals Policy

Policy/Procedure name	Bullying and Harassment	Version	2
Policy number		Date developed	Dec 2017
Drafted by	Executive Officer	Approved by CoG	TBA
Responsible person	Executive Officer	Scheduled review date	Dec 2019
Policy Area	Operational		

