

	Bullying and Harassment Policy and Procedure	Approval Date: 14/10/2021
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Authorised by:	Executive Officer	Version Date: 31/01/2022
Responsible Person:	Executive Officer	
Staff Involved:	All	

Purpose

Under Victorian law, Prace has a positive duty to provide a healthy and safe working and learning environment for all staff, volunteers, students, and stakeholders that is free from bullying and harassment.

Bullying or harassment of any type through any means is not tolerated by Prace.

It is expected that all staff, volunteers, students, and stakeholders will treat all people with whom they come into contact with respect, courtesy and consideration.

Scope

This Policy applies to all staff, volunteers, students, and stakeholders of Prace at all times.

This policy covers direct and indirect forms of bullying and harassment including visual, physical, and verbal harassment and cyber bullying.

This policy does not apply to reasonable management actions taken in performance management of a staff member or disciplinary actions taken in accordance with Prace policies and procedures.

Definitions

Bullying, in the workplace context, means **repeated behaviour** directed at an employee or group of employees that is unreasonable and creates a risk to health and safety. Sometimes bullying is also a form of discrimination. If it is directed at someone because of a personal characteristic protected by the *Equal Opportunity Act 2010*, such as race, disability, gender identity or sexual orientation, the behaviour doesn't need to be repeated to be unlawful. Bullying does **not** include **reasonable management action** carried out in a reasonable manner. See also **Nationally-agreed Definition of Bullying for Schools** below.

Cyber-bullying includes any form of bullying behaviour that occurs online or via digital technologies. It includes (but is not limited to) harassment via a mobile phone/SMS; setting up a defamatory website; spreading rumours or making insulting comments on social media; or deliberately excluding someone from social networking spaces.

Direct bullying includes behaviours defined below under **verbal, physical and visual harassment**.

Harassment includes any unwelcome behaviour that offends, humiliates or

intimidates a person. Harassment can be against the law when it is discriminatory (under equal opportunity and anti-discrimination laws), when it includes conduct of a sexual nature (sexual harassment) or when it causes a risk to someone's health or safety (occupational health and safety). A one-off incident can constitute harassment. Harassment can involve **physical** conduct, **verbal** conduct or **visual** conduct (e.g. in the form of posters, email, or SMS messages).

Indirect bullying includes the following behaviours:

- deliberately or maliciously overloading a person with work or not providing enough work
- unreasonably setting timelines that are difficult to achieve or constantly changing deadlines
- setting tasks that are unreasonably below or beyond a person's skill level
- deliberately excluding, isolating or marginalising a person from normal work/classroom activities
- withholding information that is vital for effective work/classroom performance
- deliberately denying access to information, consultation or resources
- deliberately changing work arrangements such as rosters and leave to inconvenience a particular staff member
- unfair treatment in relation to accessing workplace entitlements such as leave or training.

Nationally-agreed Definition of Bullying for Schools:

Bullying is an ongoing and deliberate misuse of power in relationships through repeated verbal, physical and/or social behaviour that intends to cause physical, social and/or psychological harm. It can involve an individual or a group misusing their power, or perceived power, over one or more persons who feel unable to stop it from happening.

Bullying can happen in person or online, via various digital platforms and devices and it can be obvious (overt) or hidden (covert). Bullying behaviour is repeated, or has the potential to be repeated, over time (for example, through sharing of digital records).

Bullying of any form or for any reason can have immediate, medium and long-term effects on those involved, including bystanders. Single incidents and conflict or fights between equals, whether in person or online, are not defined as bullying.

'Conflict or fights between equals' in this context means mutual conflict that involves a disagreement, but not an imbalance of power. Note that unresolved mutual conflict can develop into bullying if one of the parties targets the other repeatedly in retaliation.

Physical harassment includes behaviours such as practical jokes, pushing, shoving, aggressive behaviour and the like. Acts of sexual harassment include any unwanted physical contact, unnecessary touching, or physical interference with work or movement, rape, attempted or actual, and physical assault.

Prace: means the incorporated association (A0032713Z) which includes the Registered Training Organisation (4036) & Prace College (022110).

Reasonable management action may include:

- performance management processes
- disciplinary action for misconduct
- informing a worker about unsatisfactory work performance or inappropriate work behaviour
- asking a worker to perform reasonable duties in keeping with their job
- maintaining reasonable workplace goals and standards.

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

Sexual harassment, is a distinct category of harassment that is prohibited under the Victorian *Equal Opportunity Act 2010*, and the federal *Sex Discrimination Act 1984* and *Fair Work Act 2009*. It is defined as unwelcome sexual conduct in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated. It can be intended or unintended; a single incident or repeated behaviour; and can be **physical**, **verbal**, or **visual**. It can be indirect, meaning a person could be sexually harassed by being exposed to or witnessing this kind of behaviour. Sexual harassment is **not** behaviour that is based on mutual attraction, friendship or respect. If the interaction is consensual, welcomed and reciprocated it is not sexual harassment.

Social bullying is sometimes called relational or emotional bullying, and includes deliberately excluding someone, spreading rumours, sharing information that will have a harmful effect on the other person and/or damaging a person's social reputation or social acceptance.

Stakeholders refers to those persons, organisations and groups holding an interest or concern in Prace.

Unreasonable behaviour means behaviour that a reasonable person, having regard for the circumstances, would see as victimising, humiliating, undermining or threatening.

Verbal harassment includes behaviours such as foul or obscene language, derogatory racial comments, demeaning ethnic jokes or slurs, requests for sexual favours, unwanted sexual or suggestive comments, implied or expressed promises of reward for complying with, or threats of reprisal for not complying with, a sexually-oriented request, offensive jokes, offensive or suggestive comments about a person's physical appearance, offensive or threatening questioning, unwanted comments that may offend a person, obscene or threatening phone calls.

Victimisation means treating a person badly or unfairly because they have made a complaint about discrimination, sexual harassment or racial and religious vilification, it is believed they intend to make a complaint, or they've helped

someone else to make a complaint. Victimisation is against the law under the Victorian *Equal Opportunity Act 2010* and *Racial and Religious Tolerance Act 2001*.

Visual Harassment includes obscene gestures, demeaning posters, cartoons, graffiti or drawings that are shown to an individual or a group or displayed in plain view, threatening letters, indecent exposure.

General Principles

All Prace staff, volunteers, students, and stakeholders have the right to be treated with fairness, dignity and respect, and have a responsibility to treat others with the same consideration. Prace does not tolerate or condone any degree of bullying or harassment, direct or indirect, by anyone associated with the organisation.

All Prace staff, volunteers, students, and stakeholders must refrain from acts of bullying and harassment against other individuals. Such acts are unacceptable and unlawful behaviour and will be subject to disciplinary action.

Cyber bullying, even where it does not take place at a Prace work or training site may be subject to this policy and procedure.

It is the responsibility of all staff, and in particular management, to promote an inclusive and respectful workplace culture, and to ensure the workplace is free from bullying and harassment.

Students are bound by the *Student Code of Conduct* found in the Prace Student Information Handbook.

Procedure

Staff, volunteers, students, and stakeholders who experience or witness bullying or harassing behaviour are encouraged to report it.

Any complaints of bullying and harassment will be taken extremely seriously, and promptly and thoroughly investigated in accordance with current good practice as laid down in Prace's *Complaints and Appeals Policy and Procedure*. Complaints of bullying and harassment will be dealt with impartially, sensitively, and without bias.

Should a person believe that they are a victim of bullying or harassment, they are encouraged to take the following steps

- Notify a supervisor / teacher
- If the supervisor/ teacher is the cause of the problem the situation should be discussed with the next higher level of supervision or as outlined in the *Complaints and Appeals Policy and Procedure*.

The person has a choice of either formal or informal action. They will be supported to lead the process and decide on the next steps that are right for them.

Informal action:

In some cases, the problem may be addressed in an informal manner through discussion and a relevant action plan developed and implemented with further

checks over time to ensure the problem is being or has been resolved.

Formal action:

There may be an instance where the person may wish to put the concern in writing.

A full investigation will be carried out, and every effort will be made to resolve the problem to the person's satisfaction as outlined in the *Complaints and Appeals Policy and Procedure*.

In either case, Prace will ensure:

- all people involved (complainants, bystanders and affected others) are properly supported throughout a complaints process
- the safety and wellbeing of the person disclosing or formally reporting bullying or harassment is prioritised
- people are notified of any allegations made against them and are given the opportunity to respond to the allegations
- any limits to confidentiality are explained, and anything supervisors or managers are required to do (such as recording the incident or escalating the complaint)
- information about a complainant is only given to people who need to know in order for the complaint to be actioned properly
- everyone involved is aware that victimisation is against the law and will not be tolerated.

An issue may need to be immediately escalated to a formal process regardless of the complainant's preference, for example if it constitutes criminal behaviour or there is a risk to the health and safety of others in the workplace. In that case, Prace will decide whether urgent or precautionary action (pending investigation) is necessary to avoid further harm. In the interests of procedural fairness and natural justice, any urgent or precautionary action will be discussed and agreed with both parties. No adverse conclusions will be presumed due to the action taken or agreed.

External avenues are also available to complainants, as set out in the *Complaints and Appeals Policy and Procedure*.

Support Services

All parties will be made aware that they are entitled to have a support person of their choosing with them throughout any investigation.

Individuals will be provided with information about external supports and resources as appropriate, for example, the [Victorian Equal Opportunity and Human Rights Commission](#); [Bully Stoppers](#).

Glossary

Not applicable

**Relevant
Legislation /
Standards**

Age Discrimination Act 2004 (Cth)
Australian Human Rights Commission Act 1986 (Cth)
Charter of Human Rights and Responsibilities Act 2006 (Vic)
Child Wellbeing and Safety Act 2005 (Vic)
Crimes Act 1958 (Vic)
Disability Act 2006 (Vic)
Disability Discrimination Act 1992 (Cth)
Disability Standards for Education 2005 (Cth)
Equal Opportunity Act 2010 (Vic)
Fair Work Act 2009 (Cth)
Fair Work Regulations 2009 (Cth)
Health Records Act 2001 (Vic)
Ministerial Order No. 870 - Child Safe Standards
Occupational Health and Safety Act 2004 (Vic)
Privacy Act 1988 (Cth)
Privacy and Data Protection Act 2014 (Vic)
Racial and Religious Tolerance Act 2001 (Vic)
Racial Discrimination Act 1975 (Cth)
Racial Hatred Act 1995 (Cth)
Sex Discrimination Act 1984 (Cth)
Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013 (Cth)
Workplace Gender Equality Act 2012 (Cth)

Australian Quality Training Framework (AQTF) - S1.1, S2.1, S2.2, S2.7 and S3.1
Guidelines to the Minimum Standards and Requirements for School Registration

Victorian Equal Opportunity and Human Rights Commission – 6 Minimum
Standards to comply with Positive Duty <https://www.humanrights.vic.gov.au/for-organisations/positive-duty/>

**Related
Policies and
Procedures**

Acceptable Use of Digital Technologies Policy and Procedure
Access and Equity Policy and Procedure
Child Safe Policy
Complaints and Appeals Policy and Procedure
Code of Conduct
Equal Opportunity and Non-Discrimination Policy and Procedure
Gender Identity Policy and Procedure
Occupational, Health & Safety Policy and Procedure
Privacy Policy and Procedure
Risk Management Policy and Procedure
Staff Disciplinary Policy and Procedure
Student and Service Users Disciplinary Policy and Procedure
Student Support Services, Welfare and Duty of Care Policy and Procedure
Student Welfare and Duty of Care (Prace College) Policy and Procedure
Whistleblower Policy and Procedure

Related Documents

Student Code of Conduct
