



# HIGHVIEW COLLEGE

## WORKPLACE BULLYING, HARASSMENT, SEXUAL HARASSMENT & DISCRIMINATION PREVENTION POLICY

### Person Responsible – Board

(Ratified annually)

Developed by	Lawyers, Collins, Biggers and Paisley	2018
Updated by	Principal, Melinda Scash	2019
Review and Ratification by	The Highview College Board	20 February 2019

## 1 Statement of Intent

Highview College (the **College**) strives to create a healthy and safe workplace where Workplace Bullying, Harassment, Sexual Harassment and Discrimination are against the law and are never acceptable and never condoned.

- 1.1 The College is concerned to:
  - a. ensure that Workplace Bullying, Harassment, Sexual Harassment and Discrimination in the workplace does not occur;
  - b. support a harmonious workplace culture reflective of the College's Codes of Conduct, where people are treated with dignity and respect;
  - c. promote recognition and acceptance of employees' right to equality of opportunity;
  - d. assist Members of Staff to recognise workplace behaviour that is unlawful or otherwise inappropriate
  - e. provide a mechanism for action to be taken to address inappropriate behaviour.
- 1.2 The College endeavours to educate Members of Staff as to the nature and effects of Workplace Bullying, Harassment, Sexual Harassment and Discrimination in the workplace, to provide the necessary resources to inform Members of Staff of the contents of this Bullying, Harassment, Sexual Harassment & Discrimination policy, and to work towards implementing strategies to prevent occurrences of Workplace Bullying, Harassment, Sexual Harassment and Discrimination in the workplace.

## 2 Purpose and Scope

- 2.1 The purpose of this Policy is to make Members of Staff aware of what constitutes Workplace Bullying, Harassment, Sexual Harassment and Discrimination, and their responsibilities to prevent, report and manage any such conduct.
- 2.2 This Policy sets out obligations for all Members of Staff of the College including the following:
  - a. all full time, part time, casual or fixed term employees;
  - b. contractors or subcontractors or commission workers;
  - c. volunteers;
  - d. persons undertaking vocational work or work experience; and
  - e. directors or members of Boards or Sub-Committees, (collectively referred to as '**Members of Staff**').
- 2.3 Members of Staff must not engage in Workplace Bullying, Harassment, Sexual Harassment or Discrimination. All Workers are responsible for creating and maintaining a

workplace that is free from Workplace Bullying, Harassment, Sexual Harassment or Discrimination.

- 2.4 Any Member of Staff who engages in Workplace Bullying, Harassment, Sexual Harassment or Discrimination can be subject to legal proceedings if they engage in such conduct.
- 2.5 The College will not indemnify a Members of Staff found to have acted in breach of anti-discrimination, sexual harassment or human rights legislation.
- 2.6 The College can also be held to be vicariously liable (i.e. be held responsible) for Harassment, Sexual Harassment and Discrimination in the workplace. The College must take reasonable steps to prevent Harassment, Sexual Harassment and Discrimination from occurring, and respond appropriately to resolve incidents of Harassment, Sexual Harassment and Discrimination.
- 2.7 Members of Staff must also ensure that all decisions (where the Member of Staff's duties include making such decisions) regarding employment, promotion, advancement and training are on the basis of individual merit according to the skills, aptitude, qualifications and experience relevant to the work to be performed.
- 2.8 This Policy applies to all work-related interactions between Members of Staff with parents, community members and students. This includes all work-related situations whether at the workplace or off site, including, but not limited to, authorised work functions (including social functions and celebrations), while on work trips and attending conferences. This Policy also applies to use of personal social media or communications technology.
- 2.9 This Policy outlines the College's strategies and responsibilities for preventing Workplace Bullying, Harassment, Sexual Harassment and Discrimination in the workplace, and explains how the College will work with all Members of Staff to foster a culture which values respect.
- 2.10 It also explains the steps which can be taken by Members of Staff if they believe they have experienced Workplace Bullying, Sexually Harassment or Discrimination, and the steps which the College will take in response.
- 2.11 Failure to act in accordance with this Policy may result in disciplinary action. Any disciplinary action will be proportionate to the breach and may include, but is not limited to, the requirement to make a formal apology, counselling, a verbal or written warning, demotion, transfer, suspension and/or dismissal (whether immediate or with notice).
- 2.12 Serious breaches of this Policy may also result in legal proceedings being commenced against the Member of Staff for breach of relevant legislation. In the event of legal proceedings, Members of Staff may be exposed to legal costs, penalties, and/or orders to pay compensation.

### **3 Legislative and Policy Requirements**

- 3.1 As an employer, the College endeavours to provide a workplace that is free from Workplace Bullying, Harassment, Sexual Harassment and Discrimination.
- 3.2 Harassment, Sexual Harassment and Discrimination are unlawful under the following legislation:

*Federal legislation:*

- *Sex Discrimination Act 1984 (Cth)*
- *Racial Discrimination Act 1975 (Cth)*
- *Disability Discrimination Act 1992 (Cth)*
- *Age Discrimination Act 2004 (Cth)*

- *Australian Human Rights Commission Act 1986 (Cth)*
- *Fair Work Act 2009 (Cth)*

*State legislation:*

- *Anti-discrimination Act 1991 (Qld)*
- *Anti-discrimination Act 1977 (NSW)*
- *Equal Opportunity Act 2010 (Vic)*
- *Equal Opportunity Act 1984 (SA)*
- *Discrimination Act 1991 (ACT)*
- *Discrimination Act 1998 (Tas)*
- *Anti-Discrimination Act 1996 (NT)*
- *Equal Opportunity Act 1984 (WA)*

3.3 This Policy should be read in conjunction with the following College policies:

- Staff Code of Conduct; and
- Grievance Resolution Policy.

## 4 Definitions

4.1 ‘**Workplace Bullying**’ is repeated unreasonable behaviour directed towards a person, or group of persons, that causes risk to health and safety. Unreasonable behaviour means behaviour that a reasonable person, having regard to the circumstances, may consider unreasonable. Unreasonable behaviour may include, but is not limited to, abusing, humiliating, intimidating or threatening behaviour. Examples of Workplace Bullying may include, but are not limited to:

- Abusive or offensive language or comments;
- Aggressive and intimidating behaviour;
- Belittling or humiliating comments;
- Teasing or practical jokes;
- Unjustified criticisms or complaints;
- Excluding someone from work related events; or
- Unreasonable work demands.

4.2 Workplace Bullying is a health and safety issue, and the College’s obligation to prevent bullying relates to its duty as an employer to provide a safe workplace for Members of Staff.

4.3 Workplace Bullying may also amount to Discrimination if it is based on an Attribute (see below for definition), including age, gender, pregnancy, race, disability, sexual preference, religion or certain other reasons.

4.4 Bullying can happen in many different ways, including face-to-face, by telephone, and online by email, social media and SMS. It may include physical behaviour (including punching, kicking, pushing) or verbal behaviour (including threatening, verbal abuse, shouting, teasing, spreading rumours, excluding Members of Staff from relevant workplace activities or functions).

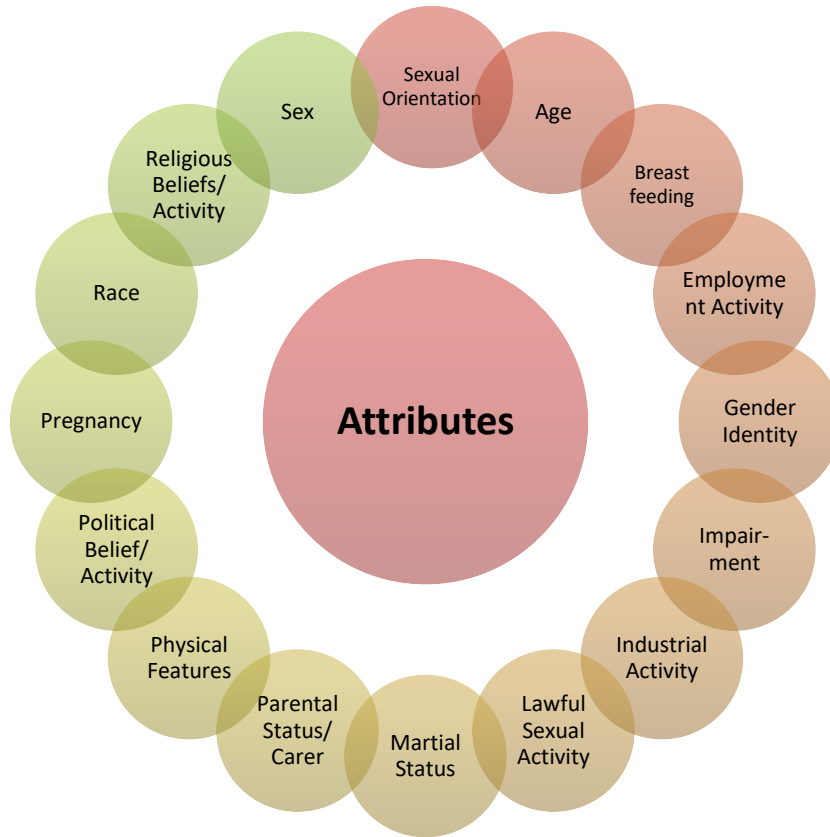
4.5 Workplace Bullying **does not include** reasonable management action carried out in a reasonable manner. The following are examples of what may constitute management action:

- Giving legitimate instructions or directions and expecting them to be carried out;
- Setting realistic standards of performance;
- Requesting improvement to work that is not meeting expectations; and
- Taking appropriate disciplinary action.

- 4.6 Differences of opinion and disagreements are generally not Workplace Bullying. People can have differences and disagreements in the workplace without engaging in repeated unreasonable behaviour that causes risk to health and safety. However, in some cases, conflict that is not managed may escalate to the point where it becomes Workplace Bullying. If workplace conflict is affecting you, you should raise your concerns with your Line Manager, or a member of Executive.
- 4.7 **'Harassment'** is prohibited by federal legislation, and is defined as:
- a. harassment in the workplace based on or linked to a person's disability or the disability of an associate; or
  - b. offensive behaviour based on racial hatred, which is defined as something done in public that offends, insults or humiliates a person or group of people because of their race, colour or national or ethnic origin.
- 4.8 Harassment can be a single incident and can occur even if the behaviour is not intended to offend.
- 4.9 **'Sexual Harassment'** is any form of unwelcome conduct of a sexual nature which would (according to a reasonable person) offend, humiliate or intimidate the other person.
- 4.10 Sexual Harassment may be physical, verbal or written and may include:
- uninvited touching or physical contact;
  - sexually offensive pictures, posters, signals or written materials;
  - sexually offensive phone calls, SMS, emails and other online communications;
  - sending, viewing or displaying pornographic, rude or obscene magazines, pictures, emails, screensavers or internet sites in the workplace;
  - patting, pinching, touching in a sexual way, standing too close to or deliberately brushing up against a person;
  - unwelcome sexual advances or unwelcome requests for sexual favours;
  - leering at a person or at parts of their body;
  - talking about your sex life or asking about another person's sex life; and
  - sexual jokes or propositions;
  - unwanted flirting;
  - repeatedly asking someone to go on a date or meet in a private or social capacity when the person has made it clear that the invitation is unwelcome;
  - indecent exposure and sexual assault;
  - making comments about a person's body, clothing or appearance (in some circumstances this could even include comments that are intended as compliments).
- 4.11 **'Discrimination'** occurs if a person:
- a. treats, or proposes to treat, a person with an Attribute unfavourably because of that Attribute (known as "direct" discrimination); and
  - b. imposes, or proposes to impose, a requirement, condition or practice that has, or is likely to have, the effect of disadvantaging people with an Attribute and that is not reasonable (known as "indirect" discrimination). "Indirect discrimination" could include:
    - a. a policy that says that managers must work full-time, as this might disadvantage women because they are more likely to work part-time because of family responsibilities.

- b. a minimum height requirement for a job where height is not relevant to carry out the role. Such a requirement might disadvantage women (and some ethnic groups) might disadvantage women because they are generally shorter than men.

4.12 Depending on the State or Territory in which you work, the following may amount to an attribute on the basis on which discrimination is prohibited (**Attribute**):



4.13 An Attribute also includes personal association with a person who is identified by reference to any of the Attributes outlined at paragraph 4.12.

## 5 Implications of Workplace Bullying, Harassment, Sexual Harassment and Discrimination

5.1 Workplace Bullying, Harassment, Sexual Harassment and Discrimination have significant effects on those directly experiencing or witnessing the behaviours, as well as their families and communities, the work team and the organisation.

5.2 At a personal level, Workplace Bullying, Harassment, Sexual Harassment and Discrimination can impact negatively on the health and wellbeing of individuals and can cause emotional exhaustion, psychological distress, physical illness, anxiety and depression. At an organisational level these behaviours can impact significantly on work outcomes and productivity, including job satisfaction, work engagement, work attendance and retention rates, as well as cause serious legal, financial and reputational damage for the organisation.

## 6 Strategies to prevent Workplace Bullying, Harassment, Sexual Harassment and Discrimination

6.1 The College strategies to deal with and prevent Workplace Bullying, Harassment, Sexual Harassment and Discrimination in the workplace are designed to address individual and organisational factors that can contribute to occurrences of these behaviours in the workplace. The strategies include:

- Implementing and promoting this Policy;
- Training and awareness-raising strategies to ensure that Members of Staff are aware of this Policy, and what behaviours is expected in the workplace;
- Dealing with unacceptable behaviour as soon as it is identified;
- Providing a clear and easy to follow process to report Workplace Bullying, Harassment, Sexual Harassment and Discrimination in the workplace;
- Basing procedures for managing reports under this Policy on the principles of procedural fairness, and that all grievances are handled in a sensitive, fair, timely and confidential manner;
- Making clear that victimisation of complainants (or witnesses to complaints) is never condoned and never accepted;
- Encouraging the reporting of behaviour which breaches this Policy; and
- Encouraging productive and respectful working relationships through promoting good management practices and effective communication throughout the workplace.

## **7 Responding to Workplace Bullying, Harassment, Sexual Harassment and Discrimination**

7.1 Anyone who believes that they are being subject to, or has witnessed, Workplace Bullying, Harassment, Sexual Harassment or Discrimination in the workplace are encouraged to report the incidents informally or formally to your Line Manager or Member of Executive.

7.2 Members of Staff who make a report or complaint under this Policy must not be victimised by the College, or other Workers, for making the report or complaint. This also applies to Members of Staff who agree to be a witness in a report or complaint, have a report or complaint made against them or are otherwise involved in the related process. Victimisation is where a person subjects or threatens to subject the other person to any detriment because the other person, or a person associated with the other person, has made a report or complaint, attended a conciliation conference, reasonably asserted their rights, or supported someone else's rights or taken part in an investigation under this Policy and/or anti-discrimination laws.

7.3 The College will treat all reports or complaints of Workplace Bullying, Harassment, Sexual Harassment or Discrimination seriously and all complaints will be handled confidentially and impartially.

7.4 However, a Vexatious Complaint will not be accepted. Members of Staff who make a Vexatious Complaint may face disciplinary action. A Vexatious Complaint is a written or verbal report or complaint of alleged improper conduct or behaviour where there is a demonstrated absence of reasonable grounds for suspecting the improper conduct or behaviour, and the report is made to cause distress, embarrassment or stress.

### **SPEAK TO THE OTHER PERSON**

7.5 If you feel safe and comfortable doing so, calmly tell the other person that you object to their behaviour and ask that it stop. They may not realise the effect their behaviour is having on you or others, and your feedback may give them the opportunity to change their actions. You may also consider suggesting an alternate way for them to behave that is acceptable to you, however whether this is appropriate will depend on the circumstances.

7.6 If you choose to deal with the situation personally you should consider:



- Acting as early as possible;
- Raising your concerns informally and in a non-confrontational manner;
- Not engaging in retaliatory behaviour;
- Focusing on the unwanted behaviour and how it makes you feel, rather than the person; and
- Being open to feedback.

7.7 If preferable, you should ask someone you trust, or your Line Manager, for assistance and support, including accompanying you when you approach the person.

### **SEEK GUIDANCE**

7.8 There are circumstances when perceived unreasonable treatment can actually be a result of miscommunication. It can be difficult in times of stress to be objective about what is happening. Therefore it may be helpful to seek the perspective of another person who is not involved. If you need extra support you can discuss the situation with your Line Manager or a member of Executive.

### **REPORT IT**

7.9 Workplace Bullying, Harassment, Sexual Harassment or Discrimination in the workplace should always be reported.

7.10 If the behaviour does appear to be Workplace Bullying, Harassment, Sexual Harassment or Discrimination, you are encouraged to report the incidents as early as possible. You can report the behaviour verbally or in writing, including by:

- Informing your Line Manager;
- Informing a member of Executive; or
- Using other established reporting procedures, such as the College's Grievance Resolution Policy.

7.11 If your Line Manager is the person whose behaviour is concerning you, consider reporting the behaviour through other channels, such as a member of Executive.

7.12 It is important to note that an observed incident of Workplace Bullying, Harassment, Sexual Harassment or Discrimination observed by any Members of Staff or other person may result in action being taken by the College without a need for a formal complaint to be made. Furthermore, the College may consider a range of steps in response to a complaint, even if the complainant does not want this to occur. If this is considered necessary, the College may discuss this with the complainant.

### **RESPONDING TO AN ACCUSATION**

7.13 If you are accused of Workplace Bullying, Harassment, Sexual Harassment or Discrimination in the workplace, you should:

#### ***Give the complaint serious consideration***

7.14 If approached about your behaviour by someone, remain calm and avoid aggravating what is likely to be an already difficult situation. Listen carefully to particular concerns expressed. Discuss how you might work together more effectively. Choose a neutral space and ask open questions without attempting to justify the behaviour.

#### ***Seek an objective opinion about the behaviour***

- 7.15 If you do not understand the complaint or would like a second opinion about your behaviour, discuss the matter with someone you trust. Any discussion should be strictly confidential. It is important not to unintentionally escalate the situation by discussing the issue openly.
- 7.16 If you believe you are being unjustly accused, or the complaint is a Vexatious Complaint, you should discuss this with your Line Manager or member of Executive. It may be that an informal discussion between you, the person making the allegation and a third party will solve the problem.
- Adjust unreasonable behaviour***
- 7.17 If you have been made aware that your behaviour is considered unreasonable, stop or modify the behaviour and review what you are doing.
- 7.18 If, after careful consideration, you believe that your behaviour is reasonable management action, you should discuss this with your Line Manager, or a member of Executive. Even in those circumstances, it may be possible to modify future management action to minimise the risk that others might find it unreasonable.
- 7.19 If you are found to have continued to engage in Workplace Bullying, Harassment, Sexually harassment or discrimination against someone after their objection to your behaviour was made known to you, your persistence, or the fact that you have not modified your behaviour, is likely to be taken into account in disciplinary or other proceedings.

## **8 Authorities and accountabilities**

- 8.1 Line Managers, College Executive and Board Members are responsible for:
- modelling appropriate behaviour in the work environment and the behaviour of Members of Staff;
  - implementing, monitoring and enforcing this Policy, including any off site/remote staff activities;
  - taking appropriate action on observation of any Workplace Bullying, Harassment, Sexual Harassment or Discrimination;
  - deal with complaints in a timely, sensitive, fair and confidential manner in accordance with College's Grievance Resolution Policy;
  - ensure that recruitment decisions are based on merit and that no discriminatory enquiries are made;
  - genuinely consider requests for flexible working arrangements; and
  - maintain appropriate confidentiality where applicable.
- 8.2 The Principal has a responsibility to take reasonable steps to prevent behaviour in breach of this Policy. To meet those responsibilities the Principal will:
- implement this Policy
  - educate Members of Staff in relation to their obligations under this Policy;
  - monitor compliance with this Policy, and
  - provide an avenue for complaints to be made and addressed in respect of alleged breaches of this Policy
- 8.3 The Board Secretary will
- provide assistance where required;
  - ensure that Board Members are kept up-to-date on legislation in relation to Workplace Bullying, Harassment, Sexual Harassment or Discrimination as they affect the workplace;



- c. keep Board Members informed of any complaints lodged except where the complaint relates to Board Members; and
  - d. maintain appropriate confidentiality where applicable.
- 8.4 The Board Chair will co-ordinate the implementation, maintenance and review of this Policy.
- 8.5 All Members of Staff are responsible for understanding and complying with the Policy.

## 9 Support Agencies

- 9.1 The College offers free, confidential counselling to Members of Staff with the School-based counsellor.
- 9.2 The following external agencies may also be able to provide Members of Staff with additional support:

### **Australian Human Rights Commission (AHRC)**

The AHRC is the Commonwealth body that addresses complaints of discrimination and sexual harassment.

For resources: [education@humanrights.gov.au](mailto:education@humanrights.gov.au)  
To make a complaint: [complaintsinfo@humanrights.gov.au](mailto:complaintsinfo@humanrights.gov.au)  
Website: <https://www.humanrights.gov.au/>  
Advice Line: 1300 656 419

Each State and Territory have a separate authority. Contact details can be found online.

### **Beyondblue**

Beyondblue provides people with access to information for depression and anxiety related matters. They can also make referrals to other relevant services.

Phone: 1300 224 636  
Website: [www.beyondblue.org.au](http://www.beyondblue.org.au)

### **Life Line**

Life Line provides people experiencing a personal crisis with access to 24 hour crisis support and suicide prevention services.

Phone: 13 11 14  
Website: [www.lifeline.org.au](http://www.lifeline.org.au)