

# UNICEF AUSTRALIA – WORKPLACE DISCRIMINATION & HARASSMENT POLICY

## 1. Purpose

The purpose is to communicate UA’s policy on prohibited behaviour including workplace harassment, sexual harassment, and discrimination and bullying and to outline what constitutes prohibited behaviour in the workplace.

This policy refers to discriminatory or other unacceptable conduct as well as conduct which also could be a criminal offence such as violence or sexual assault. Conduct which may be a criminal offence must be referred to the police, in cases where UA is required to do so refer in accordance with mandatory reporting requirements.

## 2. Scope

This policy applies to

- board members;
- all employees, including: managers and supervisors; full-time, part-time or casual, temporary or permanent employees; job candidates; student placements, contractors, sub-contractors and volunteers;
- all aspects of employment, including but not limited to: recruitment and selection; conditions and benefits; training and promotion; task allocation; shifts; hours; leave arrangements; workload;
- on-site, off-site or after-hours work; work-related social functions; conferences – wherever and whenever employees may be as a result of their UA duties; and
- employee’s treatment of other employees, of clients, and of other members of the public encountered in the course of their UA duties.

## 3. Policy Statement

UA is committed to providing a safe and respectful workplace free from all forms of discrimination, harassment and bullying.

Discrimination, harassment and bullying is unlawful.

UA has zero tolerance towards discrimination, harassment and bullying in the workplace.

UA requires all managers and supervisors to ensure that all employees are treated fairly and equitably, which includes not being subjected to harassment, discrimination or bullying.

## 4. Legislative and Regulatory Context

- *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)*
- *Work, Health and Safety Act 2011*
- *Fair Work Act 2009*
- *Anti-Discrimination Act 1977 (NSW)*
- *Equal Opportunity Act 2010 (VIC)*
- *Racial and Religious Tolerance Act 2001 (VIC)*

## 5. Employee Rights and Responsibilities

All employees are entitled to:

- Employment related decisions (for example promotion, recruitment, access to training) based on merit and not affected by irrelevant personal characteristics
- work free from discrimination, bullying and sexual harassment
- the right to raise issues or to make an enquiry or complaint in a reasonable and respectful manner without being victimised
- reasonable flexibility in working arrangements, especially where needed to accommodate their family responsibilities, disability, religious beliefs or culture.

Employees are responsible for:

- complying with relevant legislation and UA's policy in relation to discrimination, harassment and workplace bullying
- offer support to people who experience discrimination, bullying or sexual harassment, including providing information about how to make a complaint
- treating others fairly and with respect at all times
- not condoning harassment and workplace bullying
- reporting instances of harassment and workplace bullying
- avoiding gossip and respect the confidentiality of complaint resolution procedures.

### Additional responsibilities of Managers/Supervisors

- model appropriate standards of behaviour
- take steps to educate and make employees aware of their obligations under this policy and the law
- intervene quickly and appropriately when they become aware of inappropriate behaviour
- act fairly to resolve issues and enforce workplace behavioural standards, making sure relevant parties are heard
- help employees resolve complaints informally where appropriate
- refer formal complaints about breaches of this policy to Director, People & Culture
- ensure employees who raise an issue or make a complaint are not victimised
- ensure that recruitment decisions are based on merit and that no discriminatory requests for information are made
- seriously consider requests for flexible work arrangements
- ensuring that they do not reward or engage in harassing or bullying behaviour themselves.

## 6. Unacceptable Workplace Conduct

Discrimination, bullying, harassment and sexual harassment are unacceptable at UA and are unlawful under the following 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)*
- *Anti-Discrimination Act 1977 (NSW)*
- *Equal Opportunity Act 2010 (VIC)*
- *Racial and Religious Tolerance Act 2001 (VIC)*
- *Fair Work Act 2009*

UA employees found to have engaged in such conduct might be subject to performance counselling and/or formal warning. Severe or repeated breaches may lead to termination of employment, including summary dismissal.

## ➤ **Discrimination**

Discrimination is treating, or proposing to treat, someone unfavourably because of a personal characteristic protected by the law, such as sex, age, religion, race or disability.

Discrimination can occur:

**Directly**, when a person or group is treated less favourably than another person or group in a similar situation because of a personal characteristic protected by law (see list below). For example,

- An employee is harassed and humiliated because of their race, or
- A worker employee is refused promotion because they are 'too old'

**Indirectly**, when an unreasonable requirement, condition or practice is imposed that has, or is likely to have, the effect of disadvantaging people with a personal characteristic protected by law (see list below).

*For example, redundancy is decided based on people who have had a worker's compensation claim rather than on merit.*

### **Protected personal characteristics under Federal discrimination law include:**

- a disability, disease or injury, including work-related injury
- parental status or status as a carer, for example, because they are responsible for caring for children or other family members
- race, colour, descent, national origin, or ethnic background
- age, whether young or old, or because of age in general
- sex
- industrial activity, including being a member of an industrial organisation like a trade union or taking part in industrial activity, or deciding not to join a union
- religion
- pregnancy and breastfeeding
- sexual orientation, intersex status or gender identity, including gay, lesbian, bisexual, transsexual, transgender and heterosexual
- marital status, whether married, divorced, unmarried or in a de facto relationship or same
- sex relationship
- political opinion
- social origin
- medical record
- an association with someone who has, or is assumed to have, one of these characteristics, such as being the parent of a child with a disability.

It is also against the law to treat someone unfavourably because you assume they have a personal characteristic or they may have it at some time in the future.

## ➤ **Bullying**

Workplace bullying is unreasonable or inappropriate behaviour in the workplace or in the course of employment which could be reasonably be considered as intimidating, insulting, offensive, demeaning, or abusive to others. Either individuals or groups may be bullied.

If someone is being bullied because of a personal characteristic protected by equal opportunity law, it is a form of discrimination.

Bullying can take many forms, including jokes, teasing, nicknames, emails, pictures, text messages, social isolation or ignoring people, or unfair work practices. Bullying can be distinguished from more common examples of harassment in that it is often about changing the perceptions and behaviours of others, whereas harassment focuses on belittling or targeting individuals or groups on the basis of perceived differences.

Under Federal law, this behaviour does not have to be repeated to be discrimination – it may be a one-off even.

Behaviours that may constitute bullying include:

- sarcasm and other forms of demeaning language
- threats, abuse or shouting
- coercion
- isolation
- inappropriate blaming
- ganging up
- abusive or threatening social media use
- constant unconstructive criticism
- deliberately withholding information or equipment that a person needs to do their job or access their entitlements
- unreasonable refusal of requests for leave, training or other workplace benefits.

Bullying is unacceptable at UA and is in violation of Work health and safety law.

### ➤ **Workplace Harassment**

Workplace harassment is where a person is subjected to behaviour, (other than sexual harassment) that:

- is repeated, unwelcome and unsolicited;
- the person considers it to be offensive, intimidating, humiliating or threatening;
- a reasonable person would consider it to be offensive, humiliating, intimidating or threatening.

Workplace harassment can be committed by: an employer, worker, co-worker, group of co-workers, partner, donor or a member of the public.

Workplace harassment covers a wide range of behaviours. Some examples include (but are not limited to):-

- abusing a person loudly, usually when others are present;
- repeated threats of dismissal or other severe punishment, that do not follow UA's standard disciplinary procedures;
- making/sending offensive messages (e.g. via email, telephone or other means);
- significantly impairing the person's work in any way such as withholding information,
- removing content or altering the intent of the person's work;
- maliciously excluding and isolating a person from workplace activities that they would normally be involved in;
- persistent and unjustified criticisms, often about petty, irrelevant or insignificant matters;
- humiliating a person through gestures, sarcasm, criticism and insults, often in front of others;
- spreading false information.

## ➤ Sexual Harassment

Sexual harassment is a specific and serious form of harassment. It is unwelcome sexual behaviour, which could be expected to make a person feel offended, humiliated or intimidated. Sexual harassment can be physical, spoken or written.

It can include:

- comments about a person's private life or the way they look
- sexually suggestive behaviour, such as leering or staring
- brushing up against someone, touching, fondling or hugging
- sexually suggestive comments or jokes
- displaying offensive screen savers, photos, calendars or objects
- repeated unwanted requests to go out
- requests for sex
- sexually explicit posts on social networking sites
- insults or taunts of a sexual nature
- intrusive questions or statements about a person's private life
- sending sexually explicit emails or text messages
- inappropriate advances on social networking sites
- accessing sexually explicit internet sites
- behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

Just because someone does not object to inappropriate behaviour in the workplace at the time, it does not mean that they are consenting to the behaviour.

Sexual harassment is covered in the workplace when it happens at work, at work-related events, between people sharing the same workplace, or between colleagues outside of work.

All employees and volunteers have the same rights and responsibilities in relation to sexual harassment. A single incident is enough to constitute sexual harassment – it does not have to be repeated.

All incidents of sexual harassment – no matter how large or small or who is involved – require employers and managers to respond quickly and appropriately.

UA recognises that comments and behaviour that do not offend one person can offend another. This policy requires all employees and volunteers to respect other people's limits.

## ➤ Victimisation

Victimisation is subjecting or threatening to subject someone to a detriment because they have asserted their rights under equal opportunity law, made a complaint, helped someone else make a complaint, or refused to do something because it would be discrimination, sexual harassment or victimisation.

Victimisation is against the law.

It is also victimisation to threaten someone (such as a witness) who may be involved in investigating an equal opportunity concern or complaint.

Victimisation is a very serious breach of this policy and is likely (depending on the severity and circumstances) to result in formal discipline against the perpetrator.

UA has a zero-tolerance approach to victimisation.

## ➤ Gossip

It is unacceptable for employees at UA to talk with other employees, clients or suppliers about any complaint of discrimination or harassment.

Breaching the confidentiality of a formal complaint investigation or inappropriately disclosing personal information obtained in a professional role (for example, as a manager) is a serious breach of this policy and may lead to formal disciplinary action.

## 7. Merit at UA

All recruitment and job selection decisions at UA will be based on merit – the skills and abilities of the candidate as measured against the inherent requirements of the position – regardless of personal characteristics

It is unacceptable and may be against the law to ask job candidates questions, or to in any other way seek information, about their personal characteristics, unless this can be shown to be directly relevant to a genuine requirement of the position.

## 8. Resolving issues at UA

UA strongly encourages any staff member who believes they have been discriminated against, bullied, sexually harassed or victimised to take appropriate action by first speaking directly with the person or persons involved and requesting they cease the behaviour or raise it with your Manager or the Director, People & Culture.

Employees should also read the UA Complaints & Grievance Policy for information on the informal and formal process for addressing a grievance or complaint.

Employees who do not feel safe or confident to take such action may seek assistance from their Manager, Director or People & Culture for advice and support or action their behalf.

## 9. Early Intervention and Prevention

While all staff members have a responsibility to address issues of discrimination, harassment and bullying, supervisors and managers have a special responsibility to inform staff members when their behaviour may be in breach of policies, and address any potential issues at the earliest opportunity. The outcome of early action is a safe and harmonious workplace that potentially avoids more formal processes in the future.

The observation or experience of behaviour that is unacceptable is all a supervisor or manager requires to start dealing with an issue. There does not need to be a complaint made for this to occur (see Additional Responsibilities of Managers/Supervisors)

## **See Something Say Something Do Something**

*See Something Say Something Do Something* applies in situations where behaviour has been observed or reported that could be the early signs of a breach of UA's discrimination, harassment or bullying policies and the Code of Conduct. This could be a staff member using aggressive tone in interactions with colleagues, something written such as an email that is unprofessional or even more subtle actions, such as excluding one person from a meeting or not providing information that is relevant to their role.

*See Something* – When you observe behaviour that could be discrimination, harassment or bullying, you have a positive duty under the legislation to take action. Failure to take action is something that a supervisor or manager can be held accountable in external jurisdictions such as the Fair Work Commission or Anti-Discrimination Tribunals.

*Say Something* – Arrange to have a confidential discussion with the staff member and provide feedback regarding the observation of behaviour that could be a potential breach of UA's policy, reinforce what UA's expectations are regarding workplace behaviour, and explain the potential consequences of the behaviour continuing, including potentially misconduct proceedings

*Do Something* – document the observed behaviour and your actions, advise HR/People & Culture or your Director and monitor the staff member's behaviour after the discussion to ensure there has been a change.

In many cases early intervention will prevent the matter escalating, but if it doesn't, addressing issues with the staff member and documenting them has provided the opportunity for behaviour change, and is evidence of your efforts to promote a safe, harmonious and respectful work environment, which is the desired outcome of any actions taken.

## 10. Employee assistance program (EAP)

UA provides a free, confidential and independent EAP to all staff and their family members. This may be accessed to seek professional counselling on any work or non-work-related matters. EAP services are provided by Relationships Australia and can be contacted on 1300 364 277.

## 11. Other relevant UA policies

Staff members are encouraged to read this policy in conjunction with other relevant UA policies, including:

- Flexible working policy
- Work health and safety policy
- Complaints and Grievance policy
- Disciplinary policy
- Code of Conduct
- Whistle-blower policy
- Social Media Policy

## 12. Information about this policy

Version	Date	Comments	Author/s	Approved By	Review Date
V1	October 2011	V1 called Harassment & Workplace Bullying Policy	HR/People & Culture	EMT & Board	
V2	May 2016		Director, People & Culture		May 2017