



Equal Employment Opportunity and Anti-Bullying Procedure

Policy

The Equal Employment Opportunity and Anti-Bullying Procedure falls under the Staffing and Human Resources Policy. Hawthorn Early Years (the Service) is committed to providing excellent education and care to children attending the Service through recruiting, developing and supporting employees who are experienced, trained and motivated. The Service ensures that staff: child ratios are maintained at all times and clear systems are in place to determine responsibility.

Application of Procedure

This procedure applies to the Board, employees, students and volunteers and others attending the programs and activities of the Service. It also applies for all recruitment, selection and promotion decisions.

Key Definitions:

Direct discrimination: occurs when someone is treated unfavourably because of a personal characteristic that is protected under Victorian law such as their race, colour, sex or age.

Indirect Discrimination: occurs when a rule seems neutral, but has a discriminatory impact on certain people. For example a minimum height requirement of 6 foot for a particular job might be applied equally to men and women, but would indirectly discriminate on the basis of sex, as women tend to be shorter than men.

Harassment: is any form of unwelcome behaviour or language that has the effect of offending, intimidating or humiliating a person. Harassment will usually be a repeated behaviour, but can also consist of a single act. There are many types of harassment. These can range from direct forms such as inappropriate physical contact, threats and making derogatory comments; to less direct forms such as where a hostile work environment is created but no direct attacks are made on an individual. For example; ignoring or excluding someone, or being cold or distant with them.

Sexual harassment: includes unwelcome conduct of a sexual nature in circumstances in which it could reasonably be expected to make a person feel offended, humiliated or intimidated and a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would be offended, humiliated or intimidated.



Unreasonable behaviour: means behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten the other person.

Workplace bullying may include behaviour that is directed toward an employee, or group of employees, that creates a risk to health and safety. The following types of behaviour, where repeated or occurring as part of a pattern of behaviour could be considered to be workplace bullying:

- Physical or verbal abuse
- Aggressive or intimidating conduct
- Yelling, screaming or offensive language
- Excluding or isolating employees
- Psychological harassment
- Constant unreasonable and unconstructive criticism
- Giving impossible tasks or having unreasonable work expectations outside of their position description

Hawthorn Early Years is committed to:

Implementing a robust, well-planned recruitment process to ensure we select the best person for the position in line with the needs of the Service. We aim to engage employees who are suitably qualified, experienced and passionate about the early years. Our recruitment processes are aligned with our Service's values, legislative obligations and support diversity and inclusion. We are also committed to achieving the following Equal Employment Opportunity (EEO) objectives:

- To ensure all employees are treated fairly
- To fully utilise and develop the potential of every employee
- To keep all policies and procedures consistent with EEO principles
- To augment employee morale and motivation by increasing confidence in the fairness of our human resource practices and access to employment opportunities

We aim to provide a safe and equitable workplace for all employees, students and volunteers. Bullying, discrimination (direct or indirect), and harassment will not be tolerated under any circumstances. As part of this commitment, we aim to prevent workplace bullying by adhering to the Service Code of Conduct, the Early Childhood Australia Code of Ethics, Fair Work requirements, and the Service Philosophy, ensuring a safe workplace and wellbeing of all employees, students and volunteers engaged at the Service.

The Board of Governance will:

Delegate operational responsibility and day-to-day management of the Service to the Nominated Supervisors. The Centre Director and Centre Manager will act as Nominated Supervisors for the Service.



Monitor the performance of the Association, including responsibilities contained in this procedure, through regular reporting and by ensuring appropriate resources are available to carry out the organisation's functions.

Approve the appointment of the Centre Director, Centre Manager and Business Manager in line with EEO principles and objectives and be responsible for investigating allegations of bullying, harassment or discrimination involving the Centre Director or other employees if deemed appropriate.

The Nominated Supervisor/s will:

Recruitment decisions

Ensure all recruitment decisions relating to appointment, promotion and career development are made without regard to any matters other than the individual's inherent ability to carry out their job.

Approve all recruitment decisions (with the exception of the Centre Director), which will be based on the needs and requirements of the Service whilst also complying with EEO principles and legislation.

Ensure the recruitment processes is consistent, transparent, professional and timely.

Address any grievances relating to the recruitment process in line with the Complaints and Grievances Procedure.

All personal information regarding recruitment will be treated with the strictest confidence.

Bullying, discrimination and harassment

Ensure a thorough induction process is conducted at the commencement of employment for all new employees which includes expectations outlined in this procedure, a comprehensive understanding of the Service's Code of Conduct and Complaints and Grievances Procedure.

Ensure that employees are informed that unreasonable behaviour, including bullying, harassment and discrimination will not be tolerated.

Ensure that all employees are aware of appropriate interactions through professional development and training and that inappropriate behaviour is addressed in a timely manner.

Ensure all employees are aware of their job roles and responsibilities, which will be clarified through job descriptions, team meetings, performance appraisals and clear management expectations.

Take an active role in preventing bullying, discrimination and harassment and managing the impacts of these if they occur.



Take all complaints of bullying, discrimination or harassment seriously. The complaint will be investigated in a sympathetic, fair and confidential manner. Action will be taken to ensure the behaviour stops and appropriate warnings or disciplinary action will be taken where bullying, harassment or discrimination is found to have occurred.

Ensure they do not engage in bullying, discrimination or harassment themselves.

Encourage all employees to embrace the uniqueness and diversity of their colleagues.

Evaluate the effectiveness of strategies implemented to discourage and eradicate bullying, discrimination, and/or harassment.

When receiving a complaint of bullying, discrimination or harassment

When a nominated supervisor receives a complaint or becomes aware of an incident involving an allegation of bullying, discrimination or harassment, they will follow this procedure:

1. Listen to the complaint seriously and treat the complaint confidentially. Allow the complainant to bring a support person to the interview if they choose to.
2. Ask the complainant for the full story, including what happened, step by step.
3. Take notes, using the complainant's own words.
4. Ask the complainant to check the notes to ensure your record of the conversation is accurate.
5. Explain and agree on the next action with the complainant.
6. If an investigation is not requested (and the manager is satisfied that the conduct described is not in breach of this procedure) then the manager will:
 - act promptly
 - maintain confidentiality
 - pass any notes on to the complainant's people leader (if appropriate to do so)

If an investigation is requested or is appropriate, an investigation of the complaint will take place.

Investigation of a complaint

When a nominated supervisor investigates a complaint, they will follow this procedure:

1. Not assume guilt. The person who is alleged to have committed acts constituting unacceptable conduct should be treated as innocent until such time as findings are made that any of the allegations are substantiated and that unacceptable conduct has occurred.



2. If considered necessary, the person investigating the complaint may decide to stand down an employee on pay or relocate an individual to different duties whilst the complaint is being investigated.
3. Decide who will conduct the investigation. Investigations may be conducted internally or by an external investigator to ensure the matter is investigated fully and without conflicts of interest.
4. Separately interview all directly concerned, ensuring all parties are aware that all details are confidential and not to be discussed with anyone at or connected to the Service, other than the nominated supervisor/s or the external person employed to conduct the investigation.
5. Separately interview all identified witnesses, ensuring they are aware that all details are confidential and not to be discussed with anyone at or connected to the Service, other than the nominated supervisor/s or the external person employed to conduct the investigation.
6. Keep secure and confidential records of interviews and the investigation.
7. Separately and confidentially, interview the alleged harasser informing them of exactly what they are being accused. Give them a chance to respond to the accusation. Make it clear they do not have to answer any questions, however the manager will make a decision based on available information.
8. Listen carefully and record details.
9. Advise on the potential outcomes of the investigation if the allegations are substantiated.
10. Ensure confidentiality and minimise disclosure.
11. Decide on and take appropriate action based on the investigation and evidence collected.
12. Inform the complainant that an investigation has concluded and (if appropriate) that actions have been followed up. Due to privacy, the complainant will not be informed of any disciplinary actions against the other party.
13. Inform the complainant of any changes to the Service policy, procedures or internal processes to provide assurance that bullying, discrimination or harassment will not be tolerated.

All employees, students and volunteers will:

Recruitment panel - conflict of interest

Any person on a selection panel must disclose if there is a conflict of interest at the time of reviewing the applications. A conflict of interest may arise if the applicant is a personal friend or past or present close work colleague. Management must promote transparency and accountability, promote integrity and impartiality during the employment process and will therefore exclude the current employee from the selection panel and recruitment process.



Bullying, discrimination and harassment prevention

Have a clear understanding of their own and others roles and responsibilities, as outlined in each individuals position description.

Embrace the uniqueness and diversity of their colleagues, students and volunteers.

Comply with all EEO, bullying, discrimination and harassment laws and this Procedure and understand that instances of bullying, discrimination or harassment will be subject to disciplinary action, which may include dismissal.

If an employee needs to ask any questions about any aspect of unacceptable conduct, they may contact the Nominated Supervisor.

Respect the skills, strengths and opinions of all employees in order to create team cohesion based on professionalism.

Be responsible for their own actions in the workplace.

If bullying, discrimination or harassment occurs

If a person believes they are being bullied, harassed or discriminated, and if that person feels able to do so, they should speak with the discriminator, bully or harasser regarding the unwanted, unwelcome or inappropriate behaviour and ask them to stop. If the unwelcome behaviour continues, contact the nominated supervisor for support.

If that person feels unable to communicate directly with the bully, discriminator or harasser, the matter should be referred to a Nominated Supervisor for assistance.

Where an employee believes a colleague is being exposed to discrimination, bullying or harassment, that person has a duty to assist the colleague and either intervene or bring the matter to the attention of the Nominated Supervisor.

Provide the Nominated Supervisor with frank, open and specific information regarding the perceived bullying, discrimination, and/or harassment, and be prepared to have the complaint made known to the person to allow for a fair investigation, management and rectification.

Document details of the alleged bullying, discrimination or harassment to assist with the investigation.



Intention

In relation to cases of discrimination, bullying or harassment, the fact that the alleged perpetrator may not have intended to discriminate against the other person or bully or harass them, is irrelevant.

Possible outcomes

If after an investigation management finds the complaint is justified, the following outcomes may be actioned:

- Disciplinary action to be taken against the perpetrator (counselling, warning or dismissal)
- Staff training
- Additional training for the perpetrator or all staff, as appropriate
- Counselling for the complainant

Additional actions available

If any employee feels that the above processes has been inappropriate, feels uncomfortable in actioning the above processes, or the behaviour persists, contact another relevant senior manager.

Employees may also lodge a complaint with the Victorian Equal Opportunity and Human Rights Commission, the Australian Human Rights Commission, or take action under the *Fair Work Act 2009*.

See also:

1. HEY Staffing and Human Recourses Policy
2. HEY Employee Handbook
3. HEY Employee Performance Management Procedure
4. HEY Complaints and Grievances Procedure
5. HEY Occupational Health, Safety and Wellbeing Procedure
6. HEY Privacy and Confidentiality of Records Procedure
7. HEY Recruitment and Induction Procedure
8. HEY Code of Conduct Procedure