

# Equal Opportunity and Anti-Discrimination

## Purpose and Scope

The Centre is committed to providing an inclusive, safe and equitable working and learning environment, that is free from unlawful discrimination and victimisation.

All staff, learners and volunteers at The Centre must demonstrate professional and ethical behaviour in line with the Code of Conduct and must not engage in any form of discrimination or victimisation. The Centre has set key initiatives across the organisation and its operations to meet the requirements of the Disability Standards for Education 2005 and the Disability Act 2006 (Vic) -

This Policy is not limited to the workplace or work hours. This Policy extends to all functions and places that are work-related, for example, work lunches, conferences, Christmas parties, learner/client functions and the use of social media platforms including those accessed from any private accounts.

## Policy

### 1 Principles

- 1.1 The Centre has zero tolerance for unlawful discrimination and victimisation. The Centre enforces this through:
  - 1.1.1 appropriate training for staff and volunteers to raise their awareness of the impact of their behaviour on others
  - 1.1.2 educate staff and volunteers on their rights and responsibilities.
  - 1.1.3 being committed to preventing acts of discrimination, sexual harassment and victimisation in the workplace.
  - 1.1.4 ensuring there are mechanisms for staff, learners, and clients to report complaints and concerns. Understand that they are protected against any and all retribution for making a complaint or raising a concern.
  - 1.1.5 Review all related policies and procedures on an annual basis or as required.

### 2 Right and Responsibilities

- 2.1 All staff members and learners/clients must:
  - 2.1.1 Always comply with The Centre's Code of Conduct.
  - 2.1.2 not engage in any unlawful conduct towards work colleagues, learners /clients or others with whom they come into contact through work, education, or services.
  - 2.1.3 not encourage other persons to engage in unlawful conduct. Speak-up against unlawful conduct and report such behaviour.
  - 2.1.4 follow the requirements of the Grievance and Complaints Procedure if they experience or perceive any unlawful conduct.

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- 2.1.5 report and speak-up against any perceived unlawful conduct or behaviour in accordance with the Complaints and Appeals Policy or Staff Grievances under the Human Resources Policy requirements.
- 2.1.6 comply with all reasonable requests to participate in or give evidence to an officer appointed by the CEO to investigate breaches of this policy.
- 2.1.7 Provide training and attend regular training (Positive duty)
- 2.1.8 Update policies regularly (added to principles)

### 3 Employment:

- 3.1 Employment decisions are to be based on merit and not on irrelevant attributes that an individual may possess. Under Equal Employment Opportunity (EEO) laws, discrimination, sexual harassment, victimisation and vilification are unlawful.
- 3.2 The Centre may not engage a person in employment if they have a relevant criminal conviction relating to the role they are applying for. Each application will be considered on an individual basis, and a recommendation submitted to the CEO for approval.

### 4 Exclusion from programs/services or employment:

- 4.1 A client/learner or staff member may not be permitted to access employment, programs, services or engage in child-related work if:
  - 4.1.1 they have a criminal history that will prevent them from meeting the inherent requirements of a vocational area of study, industry requirements or Child Safe requirements of The Centre (See Definitions).
- 4.2 the client/learner or staff member requires modifications to the environment that would present an unjustifiable hardship to The Centre. The Centre may exclude learners that require the delivery of programs or services to be in a language other than English where additional resources to accommodate would be required at prohibitive cost to The Centre.

### 5 Discrimination

- 5.1 In accordance with relevant legislation, no person or organisation will be treated unfairly or discriminated directly or indirectly against based on age, colour, race, gender, religious or political conviction, sexuality, ability or disability, location, family responsibilities, membership or non-membership of an association or for any other stereotypical or illegal reasons. See the full list of attributes in the definitions.
- 5.2 It is also unlawful to discriminate against someone on the basis of:
  - 5.2.1 their association with a person with one of the above attributes (for example, treating someone unfavourably because their brother has a disability); or
  - 5.2.2 their perceived attribute (that is, where it is thought that a person possesses an attribute whether they in fact possess it or not).

### 6 Victimisation

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- 6.1 Victimization is where a person is retaliated against or subjected to detrimental or targeted behaviour because they have lodged a complaint, they intend to lodge a complaint, or they are involved in a complaint. A staff member or learner/client must not retaliate against a person who raises a complaint or subject them to any detriment.
- 6.2 Victimization will not be tolerated in any form at The Centre.

## 7 Vilification

- 7.1 The Centre does not tolerate any act of vilification. Any act of vilification will be dealt with accordingly.

## 8 Sexual Harassment

- 8.1 Any person associated with The Centre must not sexually harass others. Sexual harassment is behaviour that is not based on mutual attraction, friendship and respect. If the interaction is consensual, welcome and reciprocated, it is not sexual harassment.

**Note:** Serious cases of discrimination, sexual harassment or victimisation may also constitute a crime. Workplace discrimination, victimisation and sexual harassment are against the Centre's Occupational Health and Safety Policy.

## 9 Diversity and Disability

- 9.1 As an organisation, The Centre recognises and values individual differences of its clients/learners, staff and the communities that it serves and the knowledge and life experience of clients/learners who enter into our programs and services.
- 9.2 The Centre creates an environment that is inclusive for all and recognises that diversity is an opportunity to enrich and extend opportunities to all.
- 9.3 The Centre creates an inclusive environment for all people regardless of their background or circumstances by:
  - 9.3.1 providing a welcoming environment in all of its services, programs and locations.
  - 9.3.2 offering flexibility in all its programs and services.
  - 9.3.3 having an open recruitment and selection process. determining individual client/learner needs for support upon engagement with The Centre.
  - 9.3.4 providing clients/learners with access to a range of external support services within the requirements of The Centre's Welfare Policy.
- 9.4 Clients/learners that have been identified as having complex needs are supported through the application of The Centre's Welfare policy.
- 9.5 The Centre offers an Employee Assistance Program to all staff.
- 9.6 Staff are also encouraged to regularly de-brief with their Team Leader or Manager.

## 10 Change or Suppression Practices

- 10.1 The Centre has zero tolerance for any change or suppression practices. Under the Change or Suppression (Conversion) Practices Prohibition Act 2021, these practices are criminal offences and should be reported to a Team Leader or Manager and Victoria Police.

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## 11 Breaches of this Policy

- 11.1 It is the responsibility of the CEO to ensure that all staff and learners/clients are inducted. The induction provides staff with the information and ensures they can meet the requirements of the policy. The CEO must ensure that all complaints or grievances:
- 11.1.1 are investigated within the requirements of the investigation procedure.
  - 11.1.2 are afforded due process and natural justice principles to all staff and learners/clients
  - 11.1.3 are provided with a response to complaints with the right to reply within a suitable timeframe
  - 11.1.4 that the parties are supported in relation to the conduct of a staff member, learner or client.
- 11.2 If an investigation finds that a breach of this policy has occurred, the following options are available to the CEO in determining the disciplinary action taken:
- 11.2.1 serious breaches in relation to staff are to be dealt with according to the Staff Discipline Policy and Procedure(s).
  - 11.2.2 serious breaches in relation to Clients/ learners and disciplinary action are to meet the requirements of the Learner/ Client Code of Conduct signed on enrolment/ commencement by the individual learner.
- 11.3 Reasonable management action is NOT discrimination and victimisation. Managers may direct the way work is carried out, if the action is taken in a reasonable and lawful way. Examples of what these may constitute include:
- 11.3.1 Setting performance goals, standards and deadlines
  - 11.3.2 Deciding not to select a staff member for promotion
  - 11.3.3 Informing a staff member about unsatisfactory work performance
  - 11.3.4 Informing a staff member about inappropriate behaviour
  - 11.3.5 Implementing organisational changes
  - 11.3.6 Feedback on work performance.

## 12 Reporting or making a complaint

- 12.1 Employees, Volunteers and Learner/clients can report or make a complaint about any incident of discrimination and/or harassment to their Team Leader or Manager. Any reports or complaints must follow the requirements of the Grievance and Complaints Procedure.
- 12.2 Employees, Volunteers and Learner/clients can report any perceived unlawful conduct in accordance with the Complaints and Appeals Policy.

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- 12.3 All complaints of discrimination and/or harassment are brought to the attention of the CEO and will be acted upon immediately and managed in a sensitive and confidential manner.

## 13 Information Privacy and Data Security

- 13.1 Anyone involved in a complaint relating to discrimination, sexual harassment and/or victimisation, must ensure that the circumstances and facts of the complaint are disclosed only to those people who are directly involved in progressing its investigation and resolution.
- 13.2 Information relating to the requirements of this policy will be collected and stored in line with the requirements of The Centre's Information Privacy and Data Security Policy.
- 13.3 Processes relating to complaints handling, investigation, consequences, and reporting of breaches of this policy are to be monitored and managed to ensure the strictest of confidence within the requirements of the above-named policy and the Staff Confidentiality and Security Agreement

## Definitions

### Discrimination

Unlawful discrimination means treating a person less favourably because of a personal attribute they have which is covered by equal opportunity laws. Under Victorian equal opportunity laws, discrimination based on the following attributes is unlawful: sex, race, disability, gender identity, sexual orientation, lawful sexual activity age, pregnancy, marital status, parental status, breastfeeding in public, carer status, religious belief or activity, political belief or activity, industrial activity, physical features, personal association, irrelevant criminal record

### Direct Discrimination

Is when someone is treated unfavourably because they have an attribute protected by law. Examples include insulting jokes about a particular racial group or making derogatory comments or taunts about people's age, sexual preference, race or religion.

### Indirect Discrimination

Is when someone is treated unfavourably because they have an attribute protected by law. Examples include insulting jokes about a particular racial group or making derogatory comments or taunts about people's age, sexual preference, race or religion.

### Sexual Harassment

Sexual harassment is any unwanted, unwelcome or uninvited behaviour of a sexual nature in relation to another person in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be humiliated, intimidated or offended.

Sexual harassment can take many different forms and may include physical contact, verbal comments, jokes, propositions, the display of offensive material or other behaviour which creates a sexually hostile working environment.

### Victimisation

Victimisation means punishing or threatening to punish someone. It is against the law to punish or threaten to punish someone because they have:

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- asserted their rights under equal opportunity law
- made a complaint
- helped someone else make a complaint
- refused to do something because it would be discrimination, sexual harassment or victimisation

## Vilification

Vilification is a public act which incites hatred, severe contempt or severe ridicule of a person or group, because of race or religion. Vilification is a particularly serious breach of EEO laws and will be dealt with accordingly

## Child Safe Requirements

Under the requirements of the Education and Training reform Act 2006 (VIC), Education and Training Reform Regulations 2017 and the Child Safety and Wellbeing Act 2005 (Vic) schedule 1 and 2, The Centre is required to comply with the Child Safety Standards (Victoria) and ensure a suitable screening process in place for all potential employees.

## Previous Criminal Convictions

Criminal convictions within the previous 10 years (depending on the nature of the conviction) that may have an impact carrying out on employment, services, or programs.

## Inherent Requirements

Meeting the requirements of The Centre's Child Safe Policy in relation to the screening of adults in the learning environment. All adult learners enrolled in courses of a duration longer than 3 days are required to undertake application for a Volunteer Working with Children Check.

## Complex Needs

People with complex needs are understood as having multiple issues in their lives which can include mental health and/or addictions, developmental issues, involvement in the Criminal Justice system, problems finding and maintaining housing etc.

## Change of Suppression Practices

Change or suppression practices are deeply harmful practices which seek to change or hide an individual's sexual orientation or gender identity. They are sometimes referred to as 'gay conversion' practices or 'conversion therapy'.

These practices are not supported by medical research. There is no evidence that sexual orientation or gender identity can be changed or suppressed.

Practices can include teachings, counselling, spiritual care activities, or other psychological or medical interventions based on the ideology that there is something wrong or broken about people with diverse sexualities or gender identities.

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## Version Control

Procedure Operative From	06/09/2019	Date and Current Version	V8.0 09/2022
Responsible Officer	CEO	Policy Approved By	Leadership

## References

Age Discrimination Act 2004 (Cth)	Privacy and Data Protection Security Act 2014 (Vic)
Child Safety and Wellbeing Act 2005	Racial Discrimination Act 1975 (Cth)
Disability (Access to Premises - Buildings) Standards 2010 (Cth)	Sex Discrimination Act 1984. (Cth)
Disability Discrimination Act 1992 (Cth)	The Charter of Human Rights and Responsibilities Act 2006 (The Charter)
Disability Standards for Education 2005. (Cth)	The Equal Opportunity Act 2010 (Vic)
Education and Training Reform Act 2006	The Privacy Act 1988 (Cth)
Education and Training Reform Regulation 2017	The Racial and Religious Tolerance Act 2001 (Vic)
Fair Work Act 2009 (Cth)	

## Related Policy

Anti-Harassment and Anti-Bullying Policy	Human Resources Policy
Welfare Policy	Occupational Health and Safety Policy
Information Privacy and Data Security	Child Safe and Wellbeing Policy

## Related Procedures

Investigations Procedure	Staff Discipline Procedure
Information Privacy Procedure	Termination of Staff Procedure
Document Retention Schedule	Grievance & Complaints Procedure

## Related Documents

Staff Code of Conduct	Learner/ Client Code of Conduct
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