

Discrimination, Harassment, Sexual Harassment and Workplace Bullying Policy

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1. POLICY STATEMENT

BirdLife Australia is committed to having a work environment that is free from discriminatory, harassing and bullying behaviours. All members of staff and affiliates have the right to be treated with dignity and respect. Equally, all staff and affiliates have a responsibility to ensure they do not promote or engage in the discrimination, harassment or bullying of others.

1.1 Purpose

The purpose of this policy is:

- To clearly communicate to BirdLife staff and volunteers that discriminatory, harassing and bullying behaviours will not be tolerated as part of BirdLife culture.
- To train and educate BirdLife staff and volunteers to fully know and understand the nature and purpose of the Discrimination, Harassment, Sexual Harassment and Workplace Bullying Policy and practices within our organisation.
- To ensure that BirdLife staff and volunteers have access to the information and training needed to prevent discrimination, harassment or bullying arising, or if arising, to provide the framework for it to be properly addressed.
- To ensure there is confidence in addressing any and all discrimination, harassment or bullying incidents.
- To encourage the early reporting of any allegations of discrimination, harassment or bullying.
- To ensure that proper support is available for those staff or volunteers who report discrimination, harassment or bullying.
- To professionally investigate and resolve any complaint of alleged discrimination, harassment or bullying raised by staff or volunteers in a fair, timely and confidential manner.
- To ensure that staff and volunteers are not victimised or disadvantaged as a result of their reporting of any alleged discrimination, harassment or bullying.

In recognition and fulfilment of BirdLife's responsibility as an equal opportunity employer, BirdLife is also committed to ensuring:

- All employees work in an environment which provides for equal opportunity and supports the principles of affirmative action
- All employees, and all job applicants will be assessed on the basis of merit according to their skills, qualifications, abilities, prior work performance and aptitudes
- Recruitment, selection and access to conditions and benefits of employment will be on the basis of equality and merit. Job placements and promotions will fall to the person who most appropriately meets the requirements of the particular position.

1.2 Scope

All employees, contractors, consultants, members, volunteers and visitors (the BirdLife Australia Family), when engaged in our organisation's activities or employment, are expected to be both aware of and compliant with this Discrimination, Harassment, Sexual Harassment and Workplace Bullying Policy.

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1.3 Overview

BirdLife believes that all employees and volunteers should be able to work in an environment free of discrimination, harassment and bullying. We consider these behaviours to be unacceptable and they will not be tolerated under any circumstances.

It is BirdLife Australia's policy that:

- Managers and other supervisors of staff are required to ensure that all employees and volunteers are treated fairly and equitably and are not subject to discrimination, bullying or harassment
- Complainants and witnesses are not victimised in any way
- Any reports of discrimination, bullying or harassment will be treated seriously and sympathetically by BirdLife Australia and will be investigated thoroughly and confidentially
- Disciplinary action will be taken against anyone found to be guilty of discriminating against, bullying or harassing a co-worker or volunteer.

2. DEFINITIONS

2.1 Discrimination

Discrimination in the field of employment is prohibited by State and Commonwealth legislation (Victorian Equal Opportunity Act 1995, Human Rights and Equal Opportunity Act 1986, Race Discrimination Act 1975, Sex Discrimination Act 1984, Disability Discrimination Act 1992, Affirmative Action (Equal Opportunity for Women) Act 1986).

BirdLife Australia advocates that there shall be no discrimination on the basis of:

- Disability
- Race
- Sex
- Gender identity
- Pregnancy
- Breastfeeding
- Marital Status
- Relationship status
- Religious beliefs or activity
- Political beliefs or activity
- Status as a parent or carer
- Age
- Industrial activity
- Lawful sexual preference
- Physical features
- Impairment
- Personal association with a person who might fall into one of the above categories

The fact that a particular act of discrimination is unintentional does not justify it.

Victimisation because a person has made a complaint, agreed to be a witness or has had a complaint made against them is also against the law.

BirdLife is an equal opportunity employer. All employees are treated on their merits, without regard to race, age, sex, relationship status or any other factor not applicable to the position. Employees are

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valued according to how well they perform their duties, and on their ability to maintain BirdLife standards of service.

Equal Employment Opportunity: means choosing the right person for the job, on the basis of merit. It is concerned with the elimination of discrimination based on sex, marital status, race, age, religion, nationality, political persuasion and impairment. It means avoiding discrimination in relation to job recruitment, training and development opportunities, remuneration and employee benefits.

2.1.1 What is discrimination?

Discrimination can be either direct or indirect. Direct discrimination occurs when unlawful distinctions are made between individuals and groups based on any of the above grounds. Indirect discrimination occurs when a seemingly harmless policy, rule or practice has a discriminatory effect against an individual or group. Discrimination may involve:

- Making offensive 'jokes' about another worker's racial or ethnic background, sex, sexuality, age or disability.
- Expressing negative stereotypes about particular groups e.g. "married women shouldn't be working".
- Judging someone on their political or religious beliefs rather than their work performance.
- Using selection processes based on irrelevant attributes such as age, race or disability rather than on skills and merit.

2.2 Harassment

2.2.1 What is harassment?

Unlawful harassment can be based on any of the prohibited grounds of discrimination. Harassment is any form of unwelcome behaviour or language of a sexual or other nature that has the effect of offending, intimidating or humiliating a person.

Harassment will usually be repeated behaviour, but can also consist of a single act. Harassment makes the work environment unpleasant, sometimes hostile and may affect work performance.

Harassment can often be the result of behaviour that is not intended to offend or harm, such as jokes or unwanted attention. However, the fact that it is unintentional does not mean that it is not unlawful.

2.3 Vilification

2.3.1 What is vilification?

Vilification is behaviour that:

- a) is a public act; and
- b) incites others to hate, to have serious contempt for or to severely ridicule individuals or groups because of their race, religion, sexuality or gender identity.

Behaviour in the workplace can be considered a public act. This means that any conduct which can possibly be observed by the public or any sort of communication either verbal or in writing to the public can be considered to be a public act.

Some examples of vilification are:

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- Placing a poster or sticker in the workplace which incites others to hate people because of their race, religion, sexuality or gender identity.
- Wearing of symbols, badges or clothing in the workplace with slogans that incite hatred.
- One employee abusing another because of their race, religion, sexuality or gender identity in the workplace which encourages others to hate people of that race, religion, sexuality or gender identity.
- A work colleague making a speech in the workplace that incites hatred of people because of their race, religion, sexuality or gender identity.

2.4 Bullying

2.4.1 What is Bullying?

Workplace bullying in its most common form can be considered as the persistent unwelcome behaviour that generally consists of the use of unwarranted or invalid criticism, fault finding, exclusion or isolation in the workplace.

Workplace bullying is often the repeated, less favourable treatment of a person by another or others in the workplace

Workplace bullying will generally include the deliberate intent by someone to cause physical and/ or psychological distress to others in the workplace. It can include the type of behaviour that intimidates, offends, degrades or humiliates an employee, possibly in front of their colleagues, or even clients, customers, members or constituents.

2.4.2 What is 'Repeated' Behaviour?

'Repeated' behaviour refers to the persistent nature of the behaviour, not that the behaviour is the same type each time. Behaviour is considered 'repeated' if an established pattern can be identified. It may involve a series of different incidents, for example: verbal abuse, deliberate damage to personal property and unreasonable threats of dismissal.

2.4.3 What About a Single Incident?

According to the definition, a single incident of bully-style behaviour does not constitute workplace bullying, however, BirdLife does not condone this and management are required to take the appropriate action to ensure that the inappropriate behaviour is not repeated. In this instance such behaviour may, however, be considered as harassment or discrimination.

2.4.4 Who may be involved?

Workplace bullying can involve:-

- an employee and their manager or supervisor;
- fellow employees, including inexperienced and junior in age; and
- an employee and another person in the workplace, e.g. a volunteer.

2.4.5 Types of workplace bullying behaviours

There are many examples of workplace bullying, but the following provide an insight into the type of actions that can lead to workplace bullying behaviours:-

- belittling comments or remarks;
- intimidation;

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- persistent and unreasonable criticism;
- ongoing regular trivial criticisms;
- unjustifiable criticisms that do not form part of performance management or appraisal process;
- loud and aggressive or angry verbal attacks;
- manipulation, including refusing to delegate work;
- delegation of menial tasks;
- withholding or removal of responsibility for some work without justification;
- withholding of information that is relevant for the purpose of carrying out of work;
- verbal abuse;
- physical abuse; and
- isolation from colleagues.

2.4.6 What workplace bullying is not

Workplace bullying is not every communication that you do not like or may react badly to. Occasionally there will be differences of opinion at work. That is healthy and expected. In some instances those differences may even evolve to become non-aggressive conflicts. Also irritations and minor problems may arise in your working environment with colleagues. This too is natural but does not indicate the presence of workplace bullying.

Another area that is not workplace bullying is the legitimate and reasonable management of an employee's or contractor's under-performance. This can involve counselling or close monitoring and performance management. This too is part of genuine and legitimate management and does not evidence workplace bullying practices.

2.5 Sexual Harassment

2.5.1 What is sexual harassment?

Sexual harassment is any unwanted, unwelcome or uninvited behaviour of a sexual nature which makes a person feel 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.

Some examples of sexual harassment include:

- persistent, unwelcome demands, or even subtle pressures, for sexual favours or outings
- leering, patting, pinching, touching or unnecessary familiarity
- offensive comments on physical appearance, dress, or private life
- jokes, messages, emails or telephone calls of an offensive, sexual nature
- distribution or display of offensive material
- sexual assault

2.5.2 What sexual harassment is not

Sexual harassment is not behaviour which is based on mutual attraction, friendship and respect. If the interaction is consensual, welcome and reciprocated it is not sexual harassment.

2.5.3 Sexual harassment and the law

Under the Victorian Equal Opportunity Act (2010) and the Commonwealth Sex Discrimination Act (1984) sexual harassment is illegal. BirdLife will not tolerate sexual harassment in the workplace or in any work-related context such as conferences, work functions and business trips.

Sexual harassment can be a single incident - it depends on the circumstances. Obviously some actions or remarks are so offensive that they constitute sexual harassment in themselves, even if they are not repeated. Other single incidents, such as an unwanted invitation out, may not constitute harassment if they are not repeated and are polite and respectful.

There is no onus on the person being harassed to say he/she finds the conduct objectionable. Many people find it difficult to speak up. All employees and volunteers are responsible for their own behaviour.

3. RESPONSIBILITIES

While everyone is responsible for ensuring that the Discrimination, Harassment, Sexual Harassment and Workplace Bullying Policy is implemented; nevertheless the BirdLife Board, managers and supervisors are especially accountable for actively adopting, participating, complying with and promoting this Policy. Management are legally responsible for actively intervening to prevent and stop inappropriate behaviours occurring within their workplaces, whether or not a complaint has been made.

3.1 Responsibilities of BirdLife Australia Management

BirdLife management and supervisors are both responsible for and expected to:-

- Monitor the working environment to ensure that acceptable standards of conduct are observed at all times;
- Maintain a working environment that encourages respectful communication between all members of the BirdLife team;
- Model appropriate behaviour themselves;
- Recruit, promote, train, develop and transfer staff on the basis of merit and performance;
- Identify, prevent and address any inappropriate behaviours in a timely fashion and without prejudice;
- Ensure that all HR practices, policies and procedures are applied fairly and consistently;
- Provide confidential and timely information to anyone in need;
- Treat all complaints seriously and take immediate action to promptly and professionally investigate and resolve any matters raised
- Refer a complaint to another staff member if they do not feel that they are the best person to deal with the case (for example, if there is a conflict of interest or if the complaint is particularly complex or serious)
- Ensure any person who has made a complaint or who is involved in investigation of a complaint is not disadvantaged or victimised as a result of that complaint or investigation.

3.2 Responsibilities of BirdLife Australia Employees and Volunteers

All BirdLife staff and volunteers have a responsibility to treat others with fairness, equality, dignity and respect. They also have a legal responsibility not to discriminate, harass or bully others.

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All staff and volunteers have a responsibility to:

- Comply with the organisation's Discrimination, Harassment, Sexual Harassment and Workplace Bullying Policy
- Offer support to anyone who is subjected to inappropriate behaviour and let them know where they can get help and advice (they should not, however, approach the person themselves)
- Maintain complete confidentiality if they provide information during the investigation of a complaint. Staff should be warned that spreading gossip or rumours may expose them to a defamation action

All staff and volunteers have a right to use the Conflict Resolution/Complaints Procedure if they believe they have experienced discrimination, harassment or bullying in the workplace.

4. CONSEQUENCES OF FAILURE TO ACT

Employees and volunteers are expected to comply with BirdLife Policy and refrain from engaging in discriminatory, harassing or bullying behaviours. Should a complaint be made, it will be investigated in a confidential manner. If proven, the person responsible will be disciplined. In serious cases, this may involve dismissal.

It is particularly important to recognise that discrimination, harassment and bullying is such an activity, which can have terrible consequences and can come under the requirements and responsibilities of the Occupational Health & Safety legislation if not addressed. Therefore BirdLife Board members and senior staff and supervisors are expected to take all such reasonable measures to prevent and manage any such behaviours in the workplace.

The Conflict Resolution/Complaints Procedure details the action employees and volunteers can take if they feel that they have been subject to inappropriate behaviours. The procedure also explains what will happen if a complaint is made against you.

5. DEALING WITH BREACHES OF THIS POLICY

All complaints that are made under this policy are to be handled as part of the BirdLife Conflict Resolution Policy and Procedure. All allegations will be handled sensitively, treated seriously and professionally managed via the Complaints Procedure.

5.1 Reporting

If any employee or volunteer believes that they are being discriminated against, harassed or bullied in the workplace, they should report the behaviour or incident to their supervisor/manager. Where that person is not available, or is the alleged offender, the employee or volunteer should report the matter to another management staff member or the CEO.

Complainants must ensure that complaints are made honestly and fairly. Making untrue allegations about someone else could lead to legal action for defamation.

5.2 Investigation

All allegations of discrimination, harassment or bullying will be promptly and thoroughly investigated. Any person who has been complained about has the right to know the details of any allegations made against them, and an opportunity to respond to those allegations. The person complained about may seek advice before responding.

The investigation process will ensure that both sides have the chance to tell their side of the story and to be treated fairly. Both sides will have access to support or representation if they want or need it.

5.3 Confidentiality

Employees and volunteers have the right to expect that their complaint will be treated confidentially. Only people directly involved in a complaint, or in resolving it, will have access to information about it.

No person involved in an allegation or investigation of a breach under this policy will disclose the details of the issue, the investigation or the outcome to anyone who does not have a 'need to know' for purposes of resolving the complaint. If any person is found to have breached confidentiality, appropriate disciplinary action may be taken against them.

5.4 Breach

The consequences for breaching any provisions of this Policy will depend on the circumstances. Where allegations are substantiated, the BirdLife Management Team will determine appropriate action to ensure that the behaviour does not continue.

Outcomes may include any of the following:-

- counselling;
- professional development and training;
- disciplinary action;
- action taken against anyone who retaliates as a result of the complaint; and
- in some circumstances the matter may need to be reported to the Police – if it involved incidents of sexual or physical assault and stalking.

5.5 Referral

The complainant has the right to refer the issue or complaint to their respective state ombudsman or workplace authority for advice. Employees and volunteers are encouraged to refer the matter to their manager or CEO to enable the issue to be addressed internally in the first instance.

MORE INFORMATION

Federal Human Rights Commission 1300 656 419

<http://www.humanrights.gov.au/>

Victoria Equal Opportunity and Human Rights Commission 1300 292 153

<http://www.humanrightscommission.vic.gov.au/>

Fairwork Australia 13 13 94

<http://www.fairwork.gov.au/>