

# Equal Opportunity Policy

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## 1. POLICY STATEMENT

BirdLife Australia is committed to having a work environment that is free from workplace discrimination. All staff and volunteers have a right to be treated with dignity and respect. Equally, all staff and volunteers have a responsibility to ensure they do not promote or engage in discriminative behaviours.

### 1.1 Purpose

The purpose of this policy is to ensure that BirdLife Australia upholds its responsibility as being an equal opportunity employer, recognising that BirdLife's ongoing success will depend upon maximising all employees' talent, potential and contributions in the workplace.

In recognition and fulfilment of this responsibility, BirdLife is 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 Equal Opportunity Policy.

### 1.3 Overview

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

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.

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

## 2. DEFINITIONS

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.

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 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 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.

### Sexual harassment

Sexual harassment is any form of unwelcome sexual attention. It includes unwelcome touching or other physical contact, remarks with sexual connotations, smutty jokes, requests for sex, or the display of offensive materials such as pictures, posters or computer graphics.

Sexual harassment is against the law wherever and whenever it occurs. 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 has nothing to do with mutual attraction. Such friendships are a private matter.

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 are responsible for their own behaviour. (Please refer to BirdLife's Sexual Harassment Policy for more information).

## 2.3 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:

- 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.

### 3. RESPONSIBILITIES

While everyone is responsible for ensuring that the Equal Opportunity policy is implemented; nevertheless the BirdLife Board, managers and supervisors are especially accountable for actively adopting, participating, complying with and promoting this Equal Opportunity policy. Management are legally responsible for actively intervening to prevent and stop discriminative behaviour that is occurring in their workplaces, whether or not a complaint is received.

#### 3.1 Responsibilities of BirdLife Australia Management

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

- maintain a working environment that encourages respectful communication between all members of their team;
- identify, prevent and address any discriminatory type issues in a timely fashion and without prejudice;
- recruit, promote, train, develop and transfer staff on the basis of merit and performance;
- ensure that all HR practices, policies and procedures are applied fairly and consistently;
- be role models in their own behaviours;
- provide confidential and timely advice and information to everyone in need; and
- act promptly and professionally in response to any complaints that have been made or raised.

#### 3.2 Responsibilities of BirdLife Australia Employees and Volunteers

All staff and volunteers have a responsibility to treat all others in the organisation with fairness and equality. They also have a legal responsibility not to discriminate against or harass others.

All staff and volunteers have a responsibility to:

- Comply with the organisation's Equal Opportunity policy
- Offer support to anyone who is being discriminated or harassed and let them know where they can get help and advice (they should not, however, approach the harasser 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 vilification.

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## 4. CONSEQUENCES OF DISCRIMINATION AND HARASSMENT

Employees and volunteers are expected to comply with BirdLife policy and refrain from engaging in discriminatory or harassing behaviour. Should a complaint of discrimination or harassment 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.

The Equal Opportunity Complaint Handling procedure set out in this policy details the action employees and volunteers can take if they feel that they have been harassed or discriminated against. The procedure also explains what will happen if a complaint of harassment or discrimination 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 Conflict Resolution/Complaints Procedure. All reports of discriminatory behaviour 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, bullied or victimised, they should report the behaviour or incident to their supervisor/manager. Where that person is not available, or is the alleged offender, the employee should report the matter to another management staff member or the CEO.

Employees 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, bullying or victimisation 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 employee 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 employee is found to have breached confidentiality, appropriate disciplinary action may be taken against them.

### 5.4 Breach

The consequences for breaching the Equal Opportunity 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;

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- 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 are encouraged to refer the matter to their manager or CEO to enable the issue to be addressed internally in the first instance.

## 6. EQUAL OPPORTUNITY COMPLAINTS PROCEDURE

**What to do if you are discriminated against, sexually harassed, vilified or bullied**

We encourage you to go through these options to resolve your complaint, however at any time you can make a written complaint to the Equal Opportunity Commission.

### Option 1 – Self help

Try to resolve the problem yourself by talking to the person or people involved. You may find that their behaviour was unintentional and will stop if you ask.

### Option 2 – Seeking information

Talk to the OHS Coordinator if you:

- are not sure how to handle the problem yourself
- want to confidentially seek more information about what to do

### Option 3 – Asking Management to act

Talk to your supervisor or manager if you:

- think there is a chance of quickly stopping the problem before it develops
- are likely to have an ongoing working relationship with the person you are complaining about
- want them to talk confidentially to the person you are complaining about and convey your concerns
- want them to bring you together with the other party to conciliate
- want to discuss options and outcomes
- need to protect others in the workplace.

### Option 4 – Making a written complaint

Make a written complaint to management if.

- you have tried to resolve the problem and failed
- your allegations are very serious

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- your allegations have been denied and you want to substantiate them
- you want the complaint investigated
- you have been victimised for complaining
- you are complaining against a senior person and an investigation will help to ensure you are not disadvantaged.

You will need to provide exact details and any evidence of your allegations which will lead to an investigation. You are allowed to have support people with you at any interviews or meetings.

Please use the BirdLife Conflict Resolution/Complaints form to register your formal complaint.

#### **Option 5 – Asking for help elsewhere:**

If the complaint has not been resolved internally with a satisfactory outcome for all, you can approach the:

- respective State Equal Opportunity Commission
- Federal Human Rights Commission.

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#### MORE INFORMATION

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Federal Human Rights Commission 1300 656 419

<http://www.humanrights.gov.au/about/index.html>

Victoria Equal Opportunity and Human Rights Commission 1300 292 153

[http://www.humanrightscommission.vic.gov.au/index.php?option=com\\_k2&view=item&layout=item&id=729&Itemid=12](http://www.humanrightscommission.vic.gov.au/index.php?option=com_k2&view=item&layout=item&id=729&Itemid=12)

Fairwork Australia 13 13 94

<http://www.fairwork.gov.au/complaints/discrimination/pages/default.aspx>