



Organisational Wide Policy

- Org 139 Prevention & Management of Workplace Bullying, Harassment & Discrimination

Policy Statement

Beechworth Health Service (BHS) recognises the right of all staff, volunteers and students to remain free from workplace bullying, harassment and discrimination. BHS is committed to the provision of a safe and inclusive work environment where people are treated in a way that is consistent with BHS values and the Victorians Public Sector Commission's Code of Conduct.

Staff found to have either committed or condoned (Statement of Knowledge) such behaviour in the workplace will be subject to disciplinary actions which may include termination of employment.

Definitions of what constitutes Workplace Bullying, Harassment and Discrimination are located in the definitions section of this document.

Process

All allegations of workplace bullying, harassment or discrimination will be considered seriously and sympathetically and they will be attended to promptly and confidentially.

BHS must have a system that does not discourage, hinder or put at risk a decision or desire to report by people. The options available to staff to report must not be limited or indeed include a requirement to report via a method in which the alleged perpetrator is the person who might be a person who receives that information in report due to their role at BHS. This means that the notification to BHS must be able to be initiated and an investigation commenced without requiring the involvement of the alleged perpetrator.

A person making an allegation will be supported to provide the allegation in writing using the grievance template at of *HR 57 – [Conflict and Grievance - Appendix 1 Workplace Grievance Form](#) as required*. If a person requests assistance to do this, BHS will make all reasonable efforts to assist the person. Assistance may be provided by a Line Manager, Human Resource Manager, and Executive member of staff. Where the allegation is raised by other written means, and not using the BHS grievance template this information will be accepted as if it were provided via the grievance template. All documentation is to be forwarded to and maintained by the BHS Human Resource Manager (unless the allegation relates to that role in which case the alternative method of grievance documentation management shall be the HR Manager's Executive supervisor). Once this has occurred all duplicate documentation that exists including in an electronic form must be deleted into the background so as to maintain a commitment to the principles of procedural fairness, mutual respect and confidentiality, and to mitigate the risk of duplicate grievance materials existing outside the human resource investigation process.

Responsibilities - Employees:

- All staff have a legal responsibility under the Occupational Health & Safety Act 2004 to have regard for their own health and safety and that of co-workers, and therefore, must not engage in acts which constitute workplace bullying, harassment or discriminatory behaviour. Employees are required to follow instructions given by their manager relating to the prevention of workplace injuries and illnesses. This applies to measures to prevent

workplace bullying, harassment and discrimination which includes monitoring the work environment to ensure acceptable standards of conduct are observed at all times. Witnesses taking action intervention is an effective strategy that provides the earliest possible intervention against workplace bullying, harassment and discrimination. Witnesses may intervene in these described behaviours but only when they feel safe to do so.

- Staff are responsible for promoting acceptable standards of conduct by ensuring:
 - Everyone is treated with respect and courtesy in line with Beechworth Health's values and Org 55 [Employee & Volunteer Code of Conduct](#).
 - Familiarise yourself being familiar with and complying with ORG 139 Prevention & Management of Workplace Bullying, Harassment & Discrimination Policy
- Anyone asked to act on behalf of an individual must use a confidential and non-confrontational approach when discussing the issue.
- Fully participate and cooperate with the investigation into an allegation of bullying, harassment or discrimination and maintain complete confidentiality. This means that Employees, and those people involved in the investigation, must not reveal information exposed by the investigation to people outside of the investigating team. The investigating team includes the investigating Officer, the person/s making the allegation, the person(s) against whom the allegation has been made, a third-party representative/support person that those subject to the investigation may wish to engage and/or any other third party as mutually agreed, e.g. for conciliation expertise.
 - Participate in relevant training provided by and/or required by BHS.
 - Report any concerns associated with workplace bullying harassment or discrimination, without delay to the relevant Line Manager, Executive Member, Health and Safety Representative, or Human Resources Manager.

Responsibilities – Management

Do:

- Supervisors and managers must immediately intervene in issues they directly observe in the workplace or if a member of their team asks them to intervene and ensure they are provided access to any support or assistance they require
- Monitor the working environment to ensure acceptable standards of conduct are observed at all times
- Model appropriate behaviour
- Promote the values of BHS
- Promote ORG 139 Prevention & Management of Workplace Bullying, Harassment & Discrimination Policy
- Be sympathetic, sensitive and serious: the matter is serious to the person making it
- Enquire into the matter within two working days and attempt to resolve it as soon as possible
- Take preventative measures e.g. staff education by ensuring that all staff complete their mandatory education.
- Treat all allegations seriously and ensure that immediate action is taken to investigate and resolve it as soon as practicably possible
- Treat all allegations confidentially
- Document all conversations in relation to the allegation.
- Ensure all people involved and witnesses are not victimised in any way.
- Refer allegations to the Human Resources Manager who will inform the Chief Executive and relevant Executive Member and the investigation process will be led by Human Resources Manager in conjunction with relevant Executive member and or line manager
- Treat allegations in a sensitive, fair, timely and confidential manner
- Provide an effective procedure for allegations to be investigated
- Encourage the reporting of behaviour which breaches this document
- Ensure protections from victimisation or reprisals for persons.
- We must ensure that we have a secure, controllable, manageable and accessible process for staff to raise an issue of e.g. B&H
- We must give effect to all KPI reporting if it is required of us as a health service e.g. instances of OVA
- We must have a single (i.e. not competing) policy position. For example, we cannot adopt a policy position in which we on the one hand ask for a commitment for confidentiality

limited to those parties material to the matter at hand and its investigation and on the other hand, have a system in which that isn't given effect i.e. other parties are introduced into the process by way of seeing a Riskman entry.

- We must have a system that does not discourage, hinder or put at risk a decision or desire to report by people. This means that the options available to staff to report must not be limited or indeed include a requirement to report via a method in which the alleged perpetrator is the person who might be a person who receives that information in report due to their role at BHS e.g. a Nurse Manager or a Riskman administrator.

Do Not:

- Ignore the allegation or dismiss it irrespective of the process used to raise it.
- Tell the employee making the allegation to sort it out themselves
- Make a judgement about whether the allegation is true or not
- Say that the employee must put up with the behaviour
- Talk to anyone about the issues except those involved in the investigation and resolution of the issue

What can I do if I believe I am being bullied, harassed or discriminated against?

Self-management is an option to initially address workplace bullying and must take place if you feel confident and are safe to do so. Speak directly to the person and ask them to stop.

- Have an HSR raise an issue for a member of their designated work groups (DWG) or the whole DWG. HSRs are not responsible for resolving the matter.
- Any staff member who believes he or she has been the subject of bullying, harassment or discrimination by another person must bring the matter to either their Line Manager, Executive Member, HSR, or the Human Resources Manager for support and advice.
- A staff member who believes that he or she has been bullied, harassed or discriminated against by their Line Manager or Executive Member must report the incident to the HR Manager . If the HR Manager is the subject of the complaint then the matter must be reported to the Line Manager or Executive Member of the person subject to the behaviour'.
- A staff member who has an allegation of bullying, harassment or discrimination against the Chief Executive Officer must report it to the Human Resources Manager who will then escalate to the Chairperson of the Board or his/her delegate
- A Line Manager, supervisor or another staff member who observes or over hears unacceptable conduct occurring may take independent action by reporting the behaviour to the HR Manager, Line manager or executive. An investigation will be commenced into the matter as discussed below.
- Once an allegation of workplace bullying, harassment or discrimination has been heard or reported in writing it cannot be unheard. This means once an allegation has been raised BHS has a duty of care to investigate the allegation. This can be from the victim or a third party.
- BHS will assist the staff member to access the grievance process once the verbal or written grievance is raised. This means that the line manager or executive who becomes aware of an employee's grievance will provide the employee with the information required to initiate and advance the grievance resolution process as outlined in BHS HR 57 Grievance procedure. The line manager or executive will maintain confidentiality with respect to the grievance, unless they are required by a member of the investigating team to disclose information, as described below.

Investigation and Mediation:

Once it has been determined that an investigation will be undertaken;

- Investigation must commence within two working days of the receipt of the allegation.

- Emphasis will be given to the protection to staff members who and have been the subject of harassment, discrimination or bullying as well as all staff members involved or subject to in the investigation. Whilst the allegation is being investigated no interaction (other than work duties) between the complainant and alleged offender will take place without the permission of both parties. If agreement cannot be reached with respect to work duty interactions, then other options may be explored by way of mutual agreement such as re-deployment of one or more parties or access to leave.
- The relevant Manager or the investigating officer, may initiate appropriate external counselling and support for individuals or groups.
- All reports of harassment, discrimination and bullying will be treated in confidence. The conduct of investigations and conciliation will ensure confidentiality for all parties except as required by law, for example where the bullying behaviour may involve physical or sexual assault.

Resolving bullying, harassment or discriminative grievances

• Allegation Investigation Procedure:

- A staff member who has been harassed, discriminated or bullied may want to deal with the situation themselves but may seek advice on possible strategies from their line manager, HSR or the Human Resources Manager. If a staff member believes that a breakdown of a working relationship has occurred, they may request that it is resolved through conciliation or counselling. If a verbal/written allegation is lodged by a staff member, the procedure will focus on proving whether it is substantiated. All steps taken must be documented. The appointed investigating officer must have received the appropriate training and be seen as impartial to the proceeding.
- The complainant will be interviewed and the allegation documented. The allegations are conveyed by the Investigating Officer and either the Executive Member or Line Manager to the alleged offender, in full. The alleged offender is given the opportunity to respond and defend themselves against the allegations. If there is a dispute over facts, statements from witnesses and other relevant evidence are gathered. This shall be done with the knowledge of both parties to the grievance / dispute / allegation. A finding is made as to whether the allegation has substance. A report documenting the investigation process, the evidence, the finding and recommendations is submitted by the Investigating Officer to the relevant Executive Member or Line Manager to review and determine the appropriate action. The Human Resources Manager in discussion with Executive Member or Line Manager is responsible for determining disciplinary action in accordance with the Disciplinary Procedures. The relevant Executive Member or Line Manager in discussion with Human Resources will implement the recommended outcome/s.
- The parties are encouraged to have a union official, support person, advocate or other representative accompany them to any interviews or meetings. An allegation will not be dismissed on the grounds that no one saw or heard the incident/s occur. Those responsible for investigating allegations must consider all available evidence, including any surrounding evidence, and make their finding on the balance of probabilities. Outcomes may include any combination of the following:
 - Counselling;
 - Disciplinary action against the offender;
 - Official warnings which are documented on the offender's personnel file;
 - Disciplinary action against the person who made the allegation if there is strong evidence that it was vexatious or malicious
 - Conciliation/mediation conducted by an impartial third party where the parties to the complaint agree to a mutually acceptable resolution:
 - Formal apologies;
 - Managers must ensure that the outcome of a substantiated complaint does not disadvantage the person who was harassed, discriminated or bullied.
 - The outcome reached will remain confidential and the allegor will not be privy to any action relating to the offender in the case of a substantiated report.

Dealing with false reports

Allegations that are not true and made to cause harm or distress are known as vexatious or malicious. If an allegation of bullying is found to be vexatious or malicious, disciplinary action or counselling may be considered against the person who made the report. Any action taken must be consistent with BHS's policies on misconduct and disciplinary action.

Education and Training:

- On commencement education on Org 139 Prevention & Management of Workplace, Harassment & Discrimination will be delivered through the organisation's recruitment onboarding process and compulsory staff employee orientation day.
- The organisation is committed to preventing all forms of harassment, discrimination and bullying by means of mandatory education and training programs for all staff. Management will ensure that all staff has opportunities for refresher training every 12 months.
- Managers and supervisors participating in the Recruitment and Selection Process are also required to have knowledge of their obligations in relation to merit-based selection and Equal Opportunity Principles in line with policy HR59 – [Equal Employment Opportunity](#).

Staff Support Program:

- BHS has a staff support services program, this service is confidential and available to all staff. Staff members can self-refer to this program to discuss any work or personal issue. Refer to BHS HR60 - [Staff & Volunteer Support Services](#) Policy.

Outcome

All employees of BHS are fully aware that any form of bullying, harassment or discrimination in the workplace will not be tolerated. (Zero Tolerance)

Definitions

Bullying: Repeated, unreasonable behaviour directed at an employee, or group of employees, that creates a risk to health, safety and wellbeing.

Unreasonable Behaviour: includes victimising, humiliating, intimidating or threatening. Whether behaviour is unreasonable can depend on whether a reasonable person might see the behaviour as unreasonable in circumstances.

What are examples of bullying?

- Cruelty, belittlement or degradation;
- Ridicule, insult or sarcasm; (includes face to face, phone, email, text and social media)
- Threats, physical or verbal intimidation
- Public reprimand or behaviour intending to punish, such as isolation and exclusion from workplace activities
- Unreasonable work demands

Harassment: Harassment is defined as unsolicited behaviour that offends, humiliates or intimidates and focuses on a personal characteristic protected by anti-discrimination laws. (e.g. race, age, gender, disability, sexuality, marital)

Harassment can include behaviour such as:

- telling insulting jokes about particular racial groups
- sending explicit or sexually suggestive emails
- making derogatory comments or taunts about someone's race or religion
- asking intrusive questions about someone's personal life, including their sex life.

- Slander of a person to other people

What is not workplace bullying?

Legitimate and reasonable management actions carried out in a reasonable way is not bullying.

This may include:

- Direct and control the way the work is carried out
- Make decisions about poor work performance
- Take disciplinary action
- Performance management processes
- Constructive feedback

Management action that isn't carried out in a reasonable way may be considered bullying.

Bystander:

A bystander includes a person who observes someone bullying, harassing, discriminating against, sexually harassing or sexually assaulting another person.

Equal Employment Opportunity:

All people will be treated equally or similarly and not disadvantaged by prejudices or bias. This means that the best person for a job or a promotion is the person who earns that position based on qualifications, experience and knowledge.

Workplace Diversity:

Diversity values everyone's differences

Direct Discrimination:

Discrimination occurs is when a person is treated less favourably than another person for certain reasons.

Indirect Discrimination: Indirect discrimination refers to situations where a workplace policy, provision, criteria or practice puts people of a particular sexual orientation or gender identity at a disadvantage when compared to others of a different sexual orientation or gender identity.

Occupational Violence and Aggression:

Is any incident where an employee is abused, harassed, threatened or assaulted in circumstances arising out of, or in the course of their employment, irrespective of the intent to harm.

Sexual Harassment:

Is any unwanted or unwelcome sexual behaviour. It may involve a single incident or series of incidents. .

Sexual harassment may include, but is not limited to;

- Physical contact - e.g. touching, patting, pinching, kissing or embracing someone, sexual assault and rape.

- Verbal comments – e.g. innuendo, smutty jokes, suggestive comments about someone's appearance or body, persistently inviting someone out, questions about a person's private life, requests for sexual favours.
- Nonverbal actions - e.g. staring, leering, offensive body and hand movements, suggestive comments, letters and drawings, including communicating content of a sexual nature through email, social media or text messages.
- email.
- displaying images of a sexual nature around the workplace
- intrusive questions or insinuations about a person's private life or body,
- unnecessary familiarity, such as deliberately brushing up against a person

Reciprocal relationships between people do not constitute sexual harassment as they involve choice and consent. Serious sexual harassment is a crime and where it is believed that a crime has been or might have been committed; the organisation will report the matter to the police for investigation.

Investigating officer:

Refers to the person investigating the allegation. The Investigating Officer will be the Human Resources Manager unless the Human Resources Manager is the subject of the allegation. Under these circumstances, the complainant will report the allegations to the person to whom the alleged harasser is directly accountable; i.e. their Executive Member or Line Manager for investigation.

Quality & Risk Management

Goal	Risk	Rating (with controls as per this policy)	Required actions
All staff at BHS have access to a fair reporting mechanism and procedure for Bullying harassment or discrimination.	That procedure is not followed and employees are at risk on not being provided as safe workplace.	Freq= Unlikely Conseq = Minor Rating = Low (3)	<ul style="list-style-type: none"> • Manage with routine procedures • Monitor Trends

Policy Quality Improvement Action Plan

Specify accountability and responsibility	<ul style="list-style-type: none"> • Governance and responsibility for this policy is assigned to the Finance, Resources and Information Technology Committee
Monitor Trends	<ul style="list-style-type: none"> • Regular reporting on statistical information to be provided to the Chief Executive.
Education	<ul style="list-style-type: none"> • Mandatory education for staff and managers • The OHS Committee will monitor the use of this policy
Quality Improvement	Quality Improvement to this policy will be informed at review by: <ul style="list-style-type: none"> • Feedback (if any) • Department Policy • Industry Guidelines • Incident reports

Document Control

Standards	<ul style="list-style-type: none"> • NSQHSS: Standard 1 Clinical Governance Standard • Aged Care: Standard 7 Human Resources • Community Care Common Standards Standard 1 Effective Management
References	<ul style="list-style-type: none"> • Occupational Health & Safety Act 2004(Vic) • Occupational Health and Safety Regulations 2017 (Vic) • Workplace Manslaughter and Other Matters Act 2019 (Vic) • Crimes Act 1958 • Equal Opportunity Act, 2010 • Human Rights and Equal Opportunity Commission Act 1986 • Disability Discrimination Act1992 • Racial discrimination Act1975 • Age Care Act 1997 • Age Discrimination Act 2004 • Fair Work Act 2009 • Workplace Relations Act 1996 • Sex Discrimination Act 1984 • Information Privacy Act 2000 • Worksafe – Preventing workplace bullying • BHS Targeting Our Values Framework • BHS HR 60 – Staff Support and Volunteer Service policy • BHS Org 55 – Employee & Volunteer Code of Conduct policy • BHS HR 57 - Grievance Resolution Procedure • BHS HR59 – Equal Employment Opportunity • Equal Opportunity for Women in the Workplace Act 1999 • Workplace Gender Equality Act 2012 • Racial & Religious Tolerance Act 2001 • WorkSafe – Responding to workplace bullying guideline • Worksafe (2020) A guide for employers Link
Approving Committees	Occupational Health & Safety Committee Finance, Resources & IT Services Committee (FRITS)
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Contact Point	C. Shaw, Director of Corporate Services
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