INTRODUCTION

[Insert] Pty Ltd (the **Company**) is committed to providing a workplace free from discrimination and harassment.

The Company aims to ensure that when employment decisions are made, they are based on merit, not on irrelevant attributes or characteristics that an individual may possess. The Company also tries to create an environment which promotes good working relationships.

All workers are responsible for ensuring they do not promote or engage in discrimination or harassment.

Behaviour or conduct by a worker which constitutes discrimination or harassment will not be tolerated and may result in disciplinary action up to and including termination of employment/cessation of engagement.

A **worker** is any person who carries out work for the Company, including an employee, a contractor or subcontractor (and their employees), a labour hire worker, outworker, apprentice or trainee, work experience student or a volunteer.

commencement of policy

This policy commences on [Insert] and replaces all or any other discrimination and/or harassment policy (whether written or not).

RELATED POLICIES

Investigation Policy   
Workplace Bullying Policy

anti- DISCRIMINATION laws

Under anti-discrimination laws, discrimination, sexual and some other forms of harassment, victimisation and vilification are unlawful.

INTENTION NOT RELEVANT

Whether or not you intend to discriminate against or harass another person is irrelevant. The conduct will be considered objectively having regards to all the facts and circumstances.

APPLICATION OF THIS POLICY

This policy applies to all workers engaged by the Company in Australia. Every worker must comply with this policy as amended from time to time.

This policy does not form part of and is not incorporated into any worker's contract of employment or contract for service with the Company.

This policy applies while the worker is at work for the Company. It also extends to work-related functions and outside of work where there is a sufficient connection to the workplace, including, but not limited to, the following:

work or client functions;

conferences, seminars or training sessions;

work Christmas or other parties;

business trips;

use of social media; and

any place defined as a workplace under relevant work health and safety legislation.

Workers must comply with this policy when going to other workplaces in connection with work for the Company, for example, when visiting a customer or supplier.

This policy extends to every associated entity of the Company with the meaning of section 50AAA of the *Corporations Act 2001 (Cth).*

definition and examples of DISCRIMINATION, SEXUAL HARASSMENT AND HARASSMENT

**Discrimination**

Discrimination at work occurs when a person is treated less favourably because of one or more of the following actual, imputed or appertaining characteristics:

race (including colour, descent, nationality, ethno-religious origin, social or ethnic origin or extraction);

sex;

gender, gender identity, sexual orientation, gender identity, transgender or intersex status;

marital or relationship status;

pregnancy (including potential pregnancy and breastfeeding);

family responsibilities or responsibilities as a carer;

disability/impairment (including physical, intellectual or psychiatric);

genetic predisposition to disability;

religious belief, affiliation or lawful religious activity;

age;

irrelevant medical or criminal record;

homosexuality or sexual preference, including lawful sexual activity;

trade union record, membership or non-membership or lawful industrial activity;

political belief, affiliation, activity or conviction;

compulsory retirement;

HIV/AIDs vilification;

physical features; or

association with or relationship to a person with any of the above characteristics.

It is not discrimination if, a worker has a disability and, subject to reasonable adjustment, the worker cannot perform the inherent requirements of the job.

**Sexual harassment**

Sexual harassment is any form of unwelcome conduct of a sexual nature that, in the circumstances, a reasonable person would anticipate would offend, humiliate or intimidate the person harassed.

Examples of sexual harassment include (but are not limited to) such things as:

unwelcome touching or other forms of physical contact;

unwelcome remarks, comments, explicit conversation or questions of a sexual nature;

inappropriate jokes or intrusive questioning;

requests for sex or sexual favours;

display or dissemination of offensive material with sexual explicit content, messages, pictures, screensavers or objects including by internet or email;

flashing or indecent exposure;

sexual banter or crude conversations;

unwanted or persistent proposals of marriage;

offensive or nuisance telephone calls, text messages or emails;

offensive or suggestive body language or behaviour e.g. leering, staring at a person or part of their body, obscene gestures, wolf whistles or unwanted massaging; or

inappropriate or persistent gifts e.g. flowers or cards.

The person on the receiving end of the sexual harassment does not need to object to the conduct or ask for it to stop to be sexual harassment. You do not need to intend to offend, humiliate or intimidate another person for the conduct to be sexual harassment.

Sexual harassment does not need to be directed at a particular person to be unlawful. For instance, telling an inappropriate joke at the lunch table where another person was present, but not part of the conversation may constitute sexual harassment.

Mutual or consensual interaction, flirtation or friendship is not sexual harassment.

**Harassment**

Harassment is conduct against a person based on a protected characteristic that is:

1. unwelcome and unsolicited; and
2. a reasonable person would consider to be offensive, intimidating, humiliating or threatening.

Examples of harassment include (but are not limited to):

intimidation, verbal abuse or repeated threats or ridicule;

sending offensive messages by text, email or other means;

derogatory comments;

display of offensive materials, pictures, comments or objects;

practical jokes based on a protected characteristic; and

isolation, segregation or humiliation based on a protected characteristic.

**Vilification**

Vilification is any public act that incites hatred, serious contempt, or severe ridicule against another person or a group of people due to their race (including ethno-religious origin), homosexuality, transgender status and HIV/AIDS status.

**Victimisation**

Victimisation is subjecting a person to a detriment because they have done or propose to do any of the following things:

make a complaint under anti-discrimination legislation or a complaint about conduct that would constitute unlawful discrimination under anti-discrimination legislation;

provide any information or document in relation to an investigation of such conduct;

propose to attend a conciliation conference or hearing in relation to a discrimination complaint; or

support someone else lodging a discrimination complaint.

RESPONSIBILITIES

It is the responsibility of managers and supervisors to ensure workers are not discriminated or harassed within the workplace or in connection with the workplace.

It is the responsibility of every worker not to participate in discriminatory or harassing behaviour within the workplace or in connection with the workplace.

COMPLAINT PROCEDURE

If you believe you or another worker are being subject to discrimination, harassment, vilification or victimisation, you should:

1. not ignore the matter thinking it will go away;
2. if you are comfortable to do so, you should ask the person to stop; and
3. if you are not comfortable doing so or, the conduct does not stop you should immediately notify [insert responsible person and their position] by completing the complaint form **attached** to this policy. If you require assistance in completing the attached complaint form, please seek assistance from [insert responsible person and their position].

Once the complaint is received, the matter will be treated seriously and dealt with confidentially, promptly and reasonably in accordance with the Company's Investigation Policy.

A reference in this policy to confidentiality means that, the Company and the worker must, as far as is reasonably practicable, keep the matter of the discrimination, harassment, vilification or victimisation and any complaint or investigation into it on a needs to know basis only. If you are unsure of who you can discuss the matter, complaint or investigation with please contact [insert responsible person and their position].

FRIVOLOUS OR VEXATIOUS COMPLAINTS

The Company encourages the reporting of behaviour that a worker genuinely believes to be discrimination, harassment, vilification or victimisation. Further a worker will not be disadvantaged or treated unfairly for dealing with discrimination, harassment, vilification or victimisation in accordance with this policy.

However, if a complaint is found to be frivolous, vexatious or malicious, then disciplinary action up to dismissal may occur against the person making the complaint.

BREACH OF THIS POLICY

If a worker engages in discrimination, harassment, vilification or victimisation, or otherwise breaches this policy, they may be subject to disciplinary action up to and including the termination of employment or engagement with the Company.

Workers may also be personally liable for their own behaviour or conduct. This means that when a worker undertakes discrimination, harassment, vilification or victimisation, the worker may be subject to penalty or subject to an order from the regulator, the Fair Work Commission or other relevant tribunal or court.

CONTACT PERSON

If you have any queries in relation to this policy or discrimination, harassment, vilification or victimisation generally, please contact [insert name and best contact details].

**[Insert] Pty Ltd**

**discrimination, harassment, vilification or victimisation COMPLAINT FORM**

PERSONAL DETAILS

**Date:**

**Name:**

**Email address:**

**Contact number:**

**Position:**

Maintaining confidentiality

Only the people directly involved in making or investigating a complaint will have access to information about the complaint (except in circumstances necessitated by law where the alleged conduct is serious and/or may amount to criminal conduct). Please ensure that you maintain confidentiality and do not disclose details of your complaint except to the extent necessary to make your complaint in accordance with this complaint procedure.

YOUR COMPLAINT

Please include the nature of the discrimination, harassment, vilification or victimisation you say has occurred or is occurring, the relevant date/s and place/s, the name of the person/s you say is engaging in discrimination, harassment, vilification or victimisation and their position/s and what steps if any that you have taken to try to have the discrimination, harassment, vilification or victimisation stop:

witnesses

Please provide the names of any witnesses to these events:

Supporting evidence

If there are any documents that may help the Company investigate your complaint, please provide copies or advise where this information may be obtained.

what outcome are you seeking from this complaint?

E.g. that the discrimination, harassment, vilification or victimisation stop, that you receive an apology, that disciplinary action be taken:

SIGNED

**Signature:**

**Full name:**

**Date:**