



# Milpara Community House Inc.

## Anti-Discrimination, Harassment and Bullying Policy

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### DEFINITIONS

#### Discrimination

Unlawful discrimination may be either direct or indirect and takes place where a person treats another person unfavourably on the basis of: race; age; sexual orientation; lawful sexual activity; gender; gender identity; intersex; marital status; relationship status; pregnancy; breastfeeding; parental status; family responsibilities; disability; industrial activity; political belief, affiliation or activity; religious belief, affiliation or activity; irrelevant criminal or medical record; or association with a person who has, or is believed to have, any of these attributes.

#### Harassment

Harassment takes place where a person engages in conduct that offends, humiliates, intimidates, insults or ridicules another person on the basis of a discriminatory attribute in circumstances where a reasonable person would have anticipated that the other person would have been offended, humiliated, intimidated, insulted or ridiculed. For example, harassment may constitute inappropriate shouting at another employee, offensive remarks, personal insinuations and comments, ostracising employee/s and other such inappropriate behaviours.

#### Sexual Harassment

Sexual harassment takes place if a person –

- subjects another person to an unsolicited and unwelcome act of physical contact of a sexual nature; or
- makes an unwelcome sexual advance or an unwelcome request for sexual favours to another person;
- makes any unwelcome remark or statement with sexual connotations to another person or about another person in that person's presence; or
- makes any unwelcome gesture, action or comment of a sexual nature; or
- engages in conduct of a sexual nature in relation to another person in circumstances where the person would have anticipated that the other person would be offended, humiliated or intimidated.

#### Bullying

Bullying is the repeated less favourable treatment of a person by another or others in the workplace, which may be considered unreasonable and inappropriate workplace practice. It includes behaviour that intimidates, offends, degrades or humiliates another employee.

Bullying does not include:

- occasional differences of opinion and non-aggressive conflicts and problems in workplace relations
- workplace counselling, performance management, performance feedback or disciplinary issues

### PURPOSE

Milpara Community House Inc. is committed to creating and maintaining constructive productive and supportive working relationships with all who work in or use the House.



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We recognise and support the right of every member, employee, volunteer and user of the House to be able to attend work, perform their duties and participate in the services and activities of the House free from any form of unlawful discrimination, harassment or bullying.

The purpose of this policy is to guide Committee of Governance members, staff, volunteers, members, and House users in understanding unlawful discrimination, harassment and bullying, preventing it occurring, and dealing with it if it happens.

This policy applies to all House-related operations, services or activities both within or external to the House, including external conferences, workshops and seminars, work functions, social events, excursions, outings, and trips

While this policy deals with issues concerning unlawful discrimination, harassment and bullying, it should be read in conjunction with the Conflict and Grievance Resolution Policy and the Confidentiality and Privacy Policy.

This policy does not apply to suspected criminal activity, which must be reported promptly and directly to Victoria Police.

### POLICY

The policy of Milpara Community House Inc. is that all aspects of the operation, services and activities of the House will be free from unlawful discrimination, harassment and bullying.

All people involved in a complaint retain the right to seek the assistance of the relevant tribunal or legislated body to assist them in resolution of the complaint.

The person making the complaint will have the right to support throughout the process and the option to discontinue a complaint at any stage of the process.

Disciplinary action may be taken against anyone who victimises or retaliates against a person who has complained of unlawful discrimination, harassment or bullying.

Disciplinary action may be taken against anyone who victimises or retaliates against a person who has been alleged to be a perpetrator of unlawful discrimination, harassment or bullying.

Members of the Committee of Governance, the House Manager, staff, and volunteers will be obliged to ensure immediate action in addressing a complaint of unlawful discrimination, harassment or bullying if the physical or mental health and safety of any of the parties is perceived to be at risk.

If threats to persons are made, or members of the Committee of Governance, the House Manager, staff, and volunteers perceives a possible danger to a party or to other people in the House, including the





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possibility of one party being a danger to themselves, external professional assistance must be sought immediately.

Any breach of this policy will require a documented resolution and may result in sanctions or disciplinary action. Depending upon the severity of the case, consequences may include apology, counselling, transfer, demotion, dismissal, exclusion from the House, withdrawal of membership, or other forms of disciplinary action deemed appropriate.

### OBLIGATIONS

#### Employer

Milpara Community House Inc. is an equal opportunity employer. We will continue to manage the organisation with a positive awareness of the spirit and intent of equal opportunity and anti-discrimination laws. The law requires us to do all that is reasonable to prevent unlawful discrimination, harassment and bullying from occurring in the workplace.

Milpara Community House Inc. will provide support to the complainant and to victim(s) by directing them to the most appropriate channel for help and aid in resolving the issue. Confidentiality for all matters relating to the complaint will be maintained at all times, except to further the resolution of the complaint.

#### Employees, and any contractors and volunteers

You are to be aware of the requirements of this policy and act in accordance with its requirements at all times.

In particular you:

- should be aware of and identify unlawful discrimination, harassment or bullying in the workplace
- be aware of situations which might give rise to indirect discrimination
- encourage co-workers to behave in an appropriate and professional way
- behave in accordance with the principles of equal opportunity and anti-discrimination
- if behaviour that contravenes this policy is witnessed report the matter to the appropriate Manager/Supervisor
- speak honestly with management if asked about an event that may contravene this policy.

Any instance of unlawful discrimination, harassment or bullying must be reported to your Manager/Supervisor immediately or as soon as practicable after the incident has occurred.

#### Managers/Supervisors

Managers/Supervisors are responsible within their role to ensure that the objectives of this policy are included into work practices and to:

- ensure effective actions are taken to address unlawful workplace discrimination, harassment and bullying
- be considerate of the potential for requirements imposed on others to result in indirect discrimination and review current practices to ensure indirect discrimination is not occurring



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- take all allegations seriously and follow proper procedures
- ensure regular meetings with employees, both team and individual, are held promoting open and honest communication, and
- promote a culture of giving and receiving regular constructive feedback and developing employee's skills.

### PROCEDURES

#### General

Milpara Community House Inc. will provide information, and, when practicable, training to all Committee of Governance members, staff and volunteers on recognising, preventing and dealing with unlawful discrimination, harassment and bullying.

Milpara Community House Inc. will prominently display in plain language the key elements of its Anti-Discrimination, Harassment and Bullying Policy in public use areas of the premises, and as appropriate in House publications. **(See Code of Conduct).**

All members, staff and volunteers in the House will be responsible to ensure that unlawful discrimination, harassment and bullying do not occur.

All complaints will be treated seriously and in a sensitive, fair, timely and confidential manner, observing the principles of natural justice. The complaint resolution procedures for dealing with incidents of unlawful discrimination, harassment or bullying will be documented and provided to those involved at the outset of the process.

The wishes and concerns of the person making a complaint will be taken into account in determining how the complaint will be treated in accordance with the informal or formal complaint resolution procedures set out in this Policy.

The person making the complaint will be advised of the options for dealing with the complaint external to the House and this policy and procedures.

The respondents to any complaint will have the right to support throughout the process and the opportunity to respond fully to any allegations made. There will be no presumption of guilt and no determination made until any necessary investigation has been completed. No person will be treated unfairly or victimised as a result of notifying a complaint.

#### Informal Complaint Resolution

Encourage any person who feels that they have been discriminated against, harassed or bullied to directly make it clear that such behaviour is unwelcome, unacceptable and offensive and that it needs to cease immediately.



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If the behaviour continues, or if the person feels unable to speak to the alleged perpetrator(s) directly, they should contact the House Manager/nominated person or delegate. The Manager or nominated person will provide policy and procedure information, and determine the nature of the complaint and the wishes of the person with the complaint. The complainant may be satisfied with an informal intervention to address the issue or may feel that the complaint requires a full formal investigation.

The Manager or delegate will explain the rights and responsibilities under this policy of people who are party to a complaint. The Manager may obtain assistance in this process, provided the complainant agrees to extra people being brought into the process.

During informal complaint resolution, make the alleged perpetrator aware of the allegations in full and give the right to respond.

Consider the informal complaint resolution complete if the alleged perpetrator agrees and acts to ensure that no unwanted and unwelcome behaviour occurs. If mutual agreement to the satisfaction of the complainant cannot be reached, follow the formal procedure.





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### Formal Complaint Resolution

#### BEFORE THE INVESTIGATION

Where direct, informal resolution of a complaint of unlawful discrimination, harassment or bullying is not acceptable to a person involved, not possible for other reasons, or cannot be resolved to the satisfaction of all parties, implement a formal resolution procedure.

Discuss the formal process with the complaint (particularly as witnesses or management may need to be involved in the formal procedure) before proceeding with a formal complaint, and that the complaint is put in writing. Note, it is not necessary to obtain the complaints consent to proceed to a formal complaint.

Notwithstanding the previous clause, the person against whom a complaint has been raised may request a formal investigation and written finding in the interest of clearing their name. The Manager/nominated person or delegate will clarify the complaint and obtain a step-by-step account of the incident/s. With the consent of the complainant, this may require some editing to finalise the written complaint.

A formal complaint must be accompanied with a completed form as set out in Schedule A.

#### INVESTIGATION

Fully and promptly investigate all formal complaints, and keep all parties informed of progress.

Do not dismiss a formal complaint solely on the grounds that no one else saw or heard the incident/s occur.

Provide the formal complaint resolution procedures to those involved at the outset of the process.

The Milpara Community House Inc. will maintain confidentiality as far as is possible. Only involve the relevant parties in investigation and resolution procedures. Treat complaints in confidence, and where confidentiality cannot be guaranteed clearly advise the complainant of this. Complainants, persons against who complaints are made, and witnesses should be directed to not discuss the matter with other persons other than is necessary to assist in the resolution of the complaint.

Keep a clear and accurate written record of the details of any formal complaint and the procedures, actions and outcomes of the resolution process, including dates and signatures of those involved.

Provide the person against whom the complaint is made the right to procedural fairness (natural justice) including the right to know in full the allegations against them, to put their case in reply, and for any decision to be made by an impartial decision-maker.

The formal complaint resolution procedure will be co-ordinated by the Manager or delegate, and may be guided by the Committee of Governance if committee members are not a party to the complaint. The Committee of Governance does not necessarily need to know the specific details of the unlawful discrimination, harassment or bullying case to provide this guidance. The Manager and/or the Committee



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of Governance may seek professional advice or support from another independent and impartial organisation or individual.

The Manager or delegate will organise an investigation. Particularly if there is a dispute over facts, this will in most cases involve private interviews to ascertain the facts, but also may include, among other things:

- Clarifying what the complainant wants to happen as a result of making the complaint.
- Finding out the alleged perpetrator's side of the story.
- Private interviews with other employees, volunteers or individuals who may be able to assist.
- Collection of any document which relates to the case.
- Finding out and determining the issues and any evidence of this happening previously. NOTE: previous breaches of this policy should not be used to determine guilt or innocence, only the outcome once guilt has been proven.
- Supporting evidence provided by a medical practitioner, counsellor, family member, friend or co-worker.
- Supervisor's reports and personnel records (e.g. unexplained request for transfer or shift changes, sudden increase in sick leave).
- Complaints or information provided by others about the behaviour of the alleged perpetrator.
- Records kept by the person claiming unlawful discrimination, harassment or bullying.
- Information on the absence of evidence where it should exist (missing files etc.).
- Consistent and credible presentation of evidence in interview.

The Manager or delegate will document all interviews accurately. This will include parties involved, timing, location and nature of conduct which is the subject of the complaint.

### AFTER THE INVESTIGATION

If the investigation determines that unlawful discrimination, harassment or bullying has occurred, the Grievance Officer will forward a report documenting the investigation process, the evidence, the findings and the recommended actions to the appropriate decision maker (the Manager or the Committee of Governance). A copy may be placed in the perpetrator's personnel file.

The Manager and the appropriate decision maker, in consultation with the complainant, will decide the course of action to be adopted. Possible course of actions may include any combination of the following:

- Counselling.
- Disciplinary action against the perpetrator(s) (e.g. demotion, transfer, suspension, probation or dismissal).
- Official warnings that are noted in the perpetrator's personnel file.
- Formal apologies and undertaking that the behaviour will cease.
- Conciliation or mediation conducted by an impartial and experienced third party, where the parties to the complaint agree to this.
- Reimbursing any costs associated with the unlawful discrimination, harassment or bullying.
- Re-crediting any leave taken as a result of the unlawful discrimination, harassment or bullying.





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Outcomes will depend upon factors such as:

- The severity and frequency of the unlawful discrimination, harassment or bullying.
- The weight of evidence.
- The wishes of the person who was subjected to unlawful discrimination, harassment or bullying.
- Whether the perpetrator(s) could have been expected to know that such behaviour was a breach of policy.
- The level of regret and apology.
- Whether there have been any prior incidents or warnings.

The outcomes of a substantiated complaint must not disadvantage the complainant.

If there is insufficient evidence to decide whether or not unlawful discrimination, harassment or bullying occurred, the Manager or delegate will:

- Remind those involved of expected standards of conduct.
- Conduct further awareness training sessions for staff and volunteers involved in the matter.
- Monitor the situation carefully.

If there is clear evidence that the complaint was untrue, vexatious or malicious, disciplinary action may be taken against the person who complained. An explicit and clear record that the alleged perpetrator has been exonerated will be placed on the file.

The Manager or delegate will advise everyone involved of the outcome and actions to be taken. The Manager or delegate will monitor the outcome to ensure all agreed actions have been implemented, that the unlawful discrimination, harassment or bullying behaviour has ceased, and that neither party has been victimised. This may involve follow-up interviews. If there has been any further unlawful discrimination, harassment or bullying of the complainant or victimisation of the complainant or the perpetrator, then disciplinary procedures should be followed.

Keep all records and file in a confidential and secure place, separate from any employee's personnel file. Keep these records for a period of seven years.

### **Dealing With Criminal Conduct**

Some forms of severe unlawful discrimination, harassment or bullying, such as physical attack, stalking or obscene phone calls, constitute criminal conduct. While Milpara Community House Inc. is committed to treat unlawful discrimination, harassment or bullying complaints "in-House" as far as possible, refer such complaints to the police.

Advise employees and volunteers of the option of police support or intervention. While it may not be the obligation or duty of the House to report such matters to the police on behalf of the complainant, there will be circumstances where this is the appropriate course of action.

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