



Level 1, 63-65 Bayview Cres
The Basin VIC 3154
0487 410 772
john@equalbytes.com.au
equalbytes.com.au

BULLYING, DISCRIMINATION AND HARASSMENT POLICY AND PROCEDURE

POLICY

Equal Bytes is committed to providing a safe and productive work environment that aims for equality of opportunity for all and where the dignity of every individual is respected. Thus, Equal Bytes has a zero tolerance approach to any forms of inappropriate workplace behaviour and actively promotes a positive and inclusive working environment that is free from:

- Discrimination
- Harassment (including sexual harassment)
- Workplace bullying
- Occupational violence

All managers and employees have a responsibility to help maintain a workplace that is free from all forms of bullying, harassment and discrimination. As such, it is a requirement that at all times staff members, clients, visitors and contactors:

- Are treated with with dignity and respect.
- Conduct themselves in an appropriate manner.
- Comply with any related policies and procedures under this policy and relevant legislation.

In addition, this policy is linked to a number of other policies which provide expectations of appropriate staff behaviour. It is understood that all staff take pride in upholding Equal Bytes' reputation by ensuring that they exhibit high standards of professional conduct within any work related environment. This includes but is not limited to:

- Appropriate relationships and styles of communication.
- Behaviour beyond suspicion of sexual misconduct or harassment.
- Responsible behaviour of staff at all times when at work or attending other work-related functions.
- Honesty in relation to all work related transactions.
- Not be under the influence of alcohol or any illegal drugs while at work.

Equal Bytes will actively pursue all steps possible to final conclusion and resolution, to eliminate bullying, harassment and/or sexual harassment of all kinds from its workplaces.

DEFINITIONS

*Working together
to help companies thrive
in a rapidly changing world*

Bullying

Workplace bullying is repeated unreasonable behaviour directed towards a person that creates a risk to health and safety and which makes another person feel intimidated, stressed, or unsafe. Unreasonable behaviour includes victimising, humiliating, intimidating or threatening. Whether a behaviour is unreasonable can depend on whether a reasonable person might see the behaviour as unreasonable in the circumstances.

Bullying may be direct or indirect. Bullying is not an isolated incident. It is a pattern or number of repeated incidences perpetrated by an individual or group of individuals.

Direct bullying behaviour includes:

- Verbal abuse.
- Putting someone down.
- Humiliating someone through sarcasm, criticism, or insults.
- Abusive, belittling or intimidating phone calls, emails or notes.
- Being humiliated, shouted at and /or threatened, sometimes, but not always in front of others.
- Lack of workplace civility.

Indirect bullying behaviours includes:

- Unjustified criticism or complaints.
- Spreading rumours, defamation, slander or libel.
- Deliberately excluding someone from workplace activities.
- Deliberately denying access to or withholding information or other resources that is vital for effective work performance.
- Setting tasks that are unreasonably above or below a staff members ability.
- Deliberately changing work arrangements, such as rosters and leave, to inconvenience a particular staff member or group of staff.
- Excluding or isolating staff members.
- Psychological harassment.
- Repeatedly assigning the worst jobs or impossible assignments to particular staff members.
- Cyber-bullying, which includes the use of email, text messages, chat rooms, social media.
- Other forms of information broadcast technology to humiliate and distress.

When determining whether particular behaviours constitute bullying, consideration will be given to whether:

- The behaviour is a single occurrence or has been repeated.

- The behaviour has created a risk to health and safety, including stress and injury including psychological and physical harm.

Bullying is not:

- Reasonable direction or guidance from management in relation to performance.
- Genuine concern in relation to wellbeing or welfare.
- Reasonable direction by management including requirements for compliance with laws and policies.
- Setting performance goals, standards and deadlines.
- Allocating work to a staff member.
- Transferring a staff member.
- Deciding not to select a staff member for promotion.
- Informing a staff member about unsatisfactory work performance.
- Informing a staff member about inappropriate behaviour.
- Implementing organisational changes.
- Performance management processes.
- Constructive advice or feedback.
- Downsizing.

Discrimination

Discrimination is treating a person (or group of people) unfairly and or disadvantaging them because of the following actual or assumed personal characteristic(s):

- Age
- Employment activity
- Marital status
- Pregnancy
- Breastfeeding
- Gender identity
- Parental status
- Race
- Carer status
- Industrial activity
- Physical features
- Religious belief/activity
- Disability/impairment
- Lawful sexual activity
- Political belief or activity
- Sexual orientation

Harassment

Harassment in the workplace is behaviour that causes concern or distress to a staff member who perceives that the behaviour directed towards them is unwelcome, unjust, or unfair. Unlike bullying, harassment may be a single incident or a series of incidents.

Harassment may be an abuse of real power or perceived power to explicitly or implicitly gain favours, control or to threaten or disadvantage. Such perceptions of disadvantage may include lack of workplace acceptance, or loss of employment or career opportunities.

Unlawful workplace harassment must be in relation to one of the following protected arbitrary individual differences:

- Age
- Employment activity
- Marital status
- Pregnancy
- Breastfeeding
- Gender identity
- Parental status
- Race
- Carer status
- Industrial activity
- Physical features
- Religious belief/activity
- Disability/impairment
- Lawful sexual activity
- Political belief or activity
- Sexual orientation

Sexual Harassment

Sexual harassment is unwelcome sexual behaviour or sexual innuendo that has the effect of offending, intimidating or humiliating another person. Sexual harassment in the workplace is any form of unwelcome sexual attention or conduct that is perceived by the recipient to be offensive, humiliating or intimidating and that occurs in any Equal Bytes workplace or during any work related activity.

Sexual harassment may be written, verbal, graphical, audio-visual or physical and includes but is not limited to:

- Unwelcome touching, grabbing or other physical contact.
- Asking for sex or sexual favours.
- Leering and staring.
- Displaying sexually offensive material in any format.
- Sexual jokes, gestures or comments.

- Questions or discussion about a staff member's sex life.

Occupational violence

Occupational violence is any incident where a staff member is threatened or physically attacked in the workplace. Within this definition:

- 'Threat' means a statement or behaviour that would cause the ordinary person in the staff member's situation to believe they were in danger of being physically harmed.
- 'Physical attack' means the direct or indirect application of force by a person to the body of, or to clothing or equipment worn by another person, where that application creates a risk to health and safety.

PROCEDURE

Equal Bytes will not tolerate bullying, harassment or discrimination of any kind, whether it is by managers, staff, clients, contractors or others associated with the workplace in the course of its operations.

All allegations of bullying, harassment or sexual harassment and discrimination will be taken seriously and managed through the Grievance Policy and Procedure. Vexatious claims of bullying, harassment and / or sexual harassment and discrimination are considered serious misconduct and appropriate action will be taken through the Misconduct Policy and Procedure in the event of such an unfounded claim.

Maintaining a bullying and harassment free workplace

To assist Equal Bytes to maintain a work- place that is free of all forms of bullying, harassment and discrimination there is a responsibility for all employees of Equal Bytes to:

- Complete staff training on Bullying, Discrimination and Harassment on the commencement of employment and refresher training as required.
- Proactively support initiatives which are designed to raise awareness of policies, procedures and issues related to workplace bullying or harassment, including attending education sessions as required.
- Encourage any person who has concerns about possible bullying or harassment to read the policy and procedures as well as advising them that assistance can be accessed Equal Bytes Management or external regulatory authorities.
- Act promptly where behaviour that could constitute bullying or harassment has been observed, by either advising the person(s) involved that the behaviour could give offence and to cease immediately or seeking advice from their Manager.
- Where a situation of alleged bullying or harassment has occurred in the workplace, it is necessary to respect the rights of both complainant and respondent in line with natural

- justice and procedural fairness. This includes refraining from starting or engaging in gossip about the situation or the staff who may be involved.
- Refrain from victimisation of any person associated with a complaint. Victimisation is unlawful and will therefore be subject to disciplinary action.

BREACH OF THIS POLICY

Where it is found that behaviour, which constitutes a breach of Equal Bytes' Bullying, Discrimination and Harassment Policy, has occurred, immediate action will be taken. Such action includes, but is not restricted to disciplinary action including termination of employment.

The offender means no harm

The intention or motive in allegations of bullying or harassment of any kind is not relevant when determining whether the behaviour was unwelcome. Bullying and harassment focuses on how the conduct was perceived and experienced rather than the intention behind it.

External Workplace Behaviour Resolution

Although it is an individual's right to lodge a complaint with the State or Federal Commission, it is intended that Equal Bytes' internal procedures will be the initial means of resolving any complaints of workplace bullying, discrimination, harassment and/ or occupational violence.

Workplace Bullying

Under the Fair Work Amendment Act 2013, a staff member who reasonably believes that they have been bullied at work may apply directly to the Fair Work Commission (FWC) under section 789(FC). If the FWC is satisfied that a staff member has been bullied at work by an individual or group of individuals and that there is a risk that they will continue to be bullied at work by the individual or group, the FWC may make any order under section 789(FF) that it considers appropriate (other than an order requiring payment of pecuniary amount) to prevent the bullying.

The FWC could issue an order that the behaviour stop, require training to be undertaken or require a review of the employer's bullying policy and procedures. The FWC may also give regard to other procedures available to the staff member to resolve the dispute (eg internal grievance procedures) and any outcomes of procedures implemented to resolve grievances or complaints or any other matter FWC considers relevant.

The FWC must commence dealing with such an application within 14 days of it being made to the FWC.

RELATED POLICIES AND PROCEDURES



Code of Conduct Policy
Duty of Care Policy
Grievance Policy and Procedure
Incident Management Policy and Procedure
Family and Domestic Violence Policy and Procedure

RELATED LEGISLATION

Health and Safety Act (2004)
Equal Opportunity Act (2010)
Fair Work Amendment Act 2013

Written By: Kaye Csorgo
Last Reviewed: May 2020