

# Workplace Discrimination and Harassment Prevention Policy

## 1. Scope

This policy applies to:

- board members and members of WEA Sydney Council
- all staff, including: managers and supervisors; full-time, part-time or casual, temporary or permanent staff; job candidates; student placements, apprentices, tutors and other contractors, sub-contractors and volunteers
- students and other people in our workplace in relation to how they interact with each other and with staff
- how WEA Sydney provides services to students and other clients, and how it interacts with other members of the public
- all aspects of employment, recruitment and selection; conditions and benefits; training and promotion; task allocation; shifts; hours; leave arrangements; workload; equipment and transport
- on-site, off-site or after-hours work; work-related social functions; conferences – wherever and whenever staff may be in connection with their WEA Sydney duties
- staff treatment of other staff, students and other clients, and of other members of the public encountered in connection with their WEA Sydney duties.

## 2. Aims

WEA Sydney is committed to providing a safe, flexible and respectful environment for its staff and students free from all forms of discrimination, bullying and sexual harassment.

All WEA Sydney staff, students and other people in our workplace are required to treat others with dignity, courtesy and respect. By effectively implementing our *Workplace discrimination and harassment policy* we will attract and retain talented staff and create a positive environment for staff, students and other people in our workplace.

## 3. Staff and student rights and responsibilities

All staff are entitled to:

- recruitment and selection decisions based on merit and not affected by irrelevant personal characteristics
- work free from discrimination, bullying and sexual harassment
- the right to raise issues or to make an enquiry or complaint in a reasonable and respectful manner without being victimised
- reasonable flexibility in working arrangements, especially where needed to accommodate their family responsibilities, disability, religious beliefs or culture.

Students and other people are entitled to:

- be free from discrimination, bullying and sexual harassment in our workplace
- the right to raise issues or to make an enquiry or complaint in a reasonable and respectful manner without being victimised.

All staff must:

- follow the standards of behaviour outlined in this policy
- offer support to people who experience discrimination, bullying or sexual harassment, including providing information about how to make a complaint
- respect the confidentiality of complaint resolution procedures
- treat everyone with dignity, courtesy and respect.

Students and other people in our workplace must:

- follow the standards of behaviour outlined in this policy
- respect the confidentiality of complaint resolution procedures
- treat everyone with dignity, courtesy and respect.

### 3.1 Additional responsibilities of managers and supervisors

Managers and supervisors must also:

- model appropriate standards of behaviour
- take steps to educate and make staff aware of their obligations under this policy and the law
- intervene quickly and appropriately when they become aware of inappropriate behaviour
- act fairly to resolve issues and enforce workplace behavioural standards, making sure relevant parties are heard
- help staff, students and other people in our workplace resolve complaints informally refer formal complaints about breaches of this policy to the Executive Director or the Chair of the Health and Safety Committee for investigation
- ensure that staff, students or other people in our workplace who raise an issue or make a complaint are not victimised
- ensure that recruitment decisions are based on merit and that no discriminatory requests for information are made
- seriously consider requests for flexible work arrangements.

### 4. Unacceptable workplace conduct

Discrimination, bullying and sexual harassment are unacceptable at WEA Sydney and are unlawful under the following **Commonwealth legislation**:

- *Sex Discrimination Act 1984*
- *Racial Discrimination Act 1975*
- *Disability Discrimination Act 1992*
- *Age Discrimination Act 2004*
- *Australian Human Rights Commission Act 1986*

Discriminatory behaviour which includes violence or intimidation may be in breach of the **Crimes Act 1900 (New South Wales)**. Staff (including managers) found to have engaged in such conduct might be counselled, warned or disciplined. Severe or repeated breaches can lead to formal discipline up to and including dismissal. Allegations of criminal behaviour may be referred to New South Wales Police for investigation.

Established under the under the **Anti-Discrimination Act 1977 (New South Wales)**, the Anti-Discrimination Board of NSW promotes anti-discrimination and equal opportunity principles and policies throughout NSW. It administers anti-discrimination law and deals with complaints. The Act empowers the Board to receive complaints about unlawful acts of discrimination and harassment based on a person's sex, race, age, marital or domestic status, homosexuality or transgender status, disability, carer's responsibilities, or discrimination which arises from to whom a person may be related and or with whom they associate. The Board can help people if such discriminatory treatment happened in relation to employment, the provision of goods and services, public education, the provision of accommodation and the conduct of registered clubs.

The Act also empowers the Board to receive complaints about harassment and sexual harassment. Under the *Anti-Discrimination Act*, racial discrimination and sexual harassment are unlawful in both public educational institutions (such as government schools, colleges and universities) as well as private educational institutions (such as WEA Sydney).

Although WEA Sydney is not subject to the *Anti-Discrimination Act* except in relation to harassment and sexual harassment, WEA Sydney fully commits itself to avoid the other forms of discrimination and harassment described in the Act which would be unlawful if they occurred in a public educational institution.

Part 6 of the **New South Wales Work Health and Safety Act 2011** prohibits discriminatory, coercive and misleading conduct against workers for “prohibited reasons” which are set out in section 106. “Prohibited reasons” include discriminatory, coercive and misleading conduct against workers because they are performing duties and functions in accordance with the Act, including as a member of a workplace health and safety committee.

#### 4.1 Discrimination

Discrimination is treating, or proposing to treat, someone unfavourably because of a personal characteristic protected by the law, such as sex, age, race or disability.

Discrimination can occur:

**Directly**, when a person or group is treated less favourably than another person or group in a similar situation because of a personal characteristic protected by law (see list below).

*For example, a worker or student is harassed and humiliated because of their race  
or*

*A worker is refused promotion because they are ‘too old’*

**Indirectly**, when an unreasonable requirement, condition or practice is imposed that has, or is likely to have, the effect of disadvantaging people with a personal characteristic protected by law (see list below).

*For example, redundancy is decided based on people who have had a worker’s compensation claim rather than on merit.*

#### Protected personal characteristics under Federal discrimination law include:

- a disability, disease or injury, including work-related injury
- parental status or status as a carer, for example, because they are responsible for caring for children or other family members
- race, colour, descent, national origin, or ethnic background
- age, whether young or old, or because of age in general
- sex
- industrial activity, including being a member of an industrial organisation like a trade union or taking part in industrial activity, or deciding not to join a union
- religion
- pregnancy and breastfeeding
- sexual orientation, intersex status or gender identity, including gay, lesbian, bisexual, transsexual, transgender, queer and heterosexual
- marital status, whether married, divorced, unmarried or in a de facto relationship or same sex relationship
- political opinion
- social origin
- medical record
- an association with someone who has, or is assumed to have, one of these characteristics, such as being the parent of a child with a disability.

It is also against the law to treat someone unfavourably because you assume they have a personal characteristic or may have it at some time in the future.

#### 4.2 Bullying

If someone is being bullied because of a personal characteristic protected by equal opportunity law, it is a form of discrimination. Bullying can take many forms, including jokes, teasing, nicknames, emails, pictures, text messages, social isolation or ignoring people, or unfair work practices. **Under Federal law**, this behaviour does not have to be repeated to be discrimination – it may be a one-off event.

Behaviours that may constitute bullying include:

- sarcasm and other forms of demeaning language
- threats, abuse or shouting
- coercion
- isolation
- inappropriate blaming
- ganging up
- constant unconstructive criticism
- deliberately withholding information or equipment that a person needs to do their job or access their entitlements
- unreasonable refusal of requests for leave, training or other workplace benefits.

Bullying is unacceptable in WEA Sydney and is also unacceptable in terms of work health and safety law. For more details, see WEA Sydney's **Workplace Bullying Prevention Policy**.

### 4.3 Sexual harassment

Sexual harassment is a specific and serious form of harassment. It is unwelcome sexual behaviour, which could be expected to make a person feel offended, humiliated or intimidated. Sexual harassment can be physical, spoken or written. It can include:

- comments about a person's private life or the way they look
- sexually suggestive behaviour, such as leering or staring
- brushing up against someone, touching, fondling or hugging
- sexually suggestive comments or jokes
- displaying offensive screen savers, photos, calendars or objects
- repeated unwanted requests to go out
- requests for sex
- sexually explicit posts on social networking sites
- insults or taunts of a sexual nature
- intrusive questions or statements about a person's private life
- sending sexually explicit emails or text messages
- inappropriate advances on social networking sites
- accessing sexually explicit internet sites
- behaviour that may also be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

Just because someone does not object to inappropriate behaviour in the workplace at the time, it does not mean that they are consenting to the behaviour. Sexual harassment is covered in the workplace when it happens at work, at work-related events, between people sharing the same workplace, or between colleagues outside of work. All persons covered in the scope for this policy on page 1 have the same rights and responsibilities in relation to sexual harassment. A single incident is enough to constitute sexual harassment – it doesn't have to be repeated. All incidents of sexual harassment – no matter how large or small or who is involved – require employers and managers to respond quickly and appropriately.

WEA Sydney recognises that comments and behaviour that do not offend one person can offend another. This policy requires all staff, students and volunteers to respect other people's limits. For more details, see WEA Sydney's **Sexual Harassment Prevention Policy**.

#### **4.4 Victimisation**

Victimisation is subjecting or threatening to subject someone to a detriment because they have asserted their rights under equal opportunity law, made a complaint, helped someone else make a complaint, or refused to do something because it would be discrimination, sexual harassment or victimisation.

Victimisation is against the law.

It is also victimisation to threaten someone (such as a witness) who may be involved in investigating an equal opportunity concern or complaint. Victimisation is a very serious breach of this policy and is likely (depending on the severity and circumstances) to result in formal discipline against the perpetrator. WEA Sydney has a zero-tolerance approach to victimisation.

#### **4.5 Confidentiality of formal investigations**

Breaching the confidentiality of a formal complaint investigation or inappropriately disclosing personal information obtained in a professional role (for example, as a manager) is a serious breach of this policy and may lead to formal discipline.

#### **5. Merit at WEA Sydney**

All recruitment and job selection decisions at WEA Sydney will be based on merit – the skills and abilities of the candidate as measured against the inherent requirements of the position – regardless of personal characteristics. It is unacceptable and may be against the law to ask job candidates questions, or to in any other way seek information, about their personal characteristics, unless this can be shown to be directly relevant to a genuine requirement of the position.

#### **6. Resolving issues at WEA Sydney**

WEA Sydney strongly encourages any staff member, student or any other person in our workplace who believes they have been discriminated against, bullied, sexually harassed or victimised to take appropriate action by reporting it to the Executive Director or a WEA manager; you may also raise the issue with the current President of WEA Sydney by requesting a meeting (via this email address: [president@weasydney.nsw.edu.au](mailto:president@weasydney.nsw.edu.au)), if the relevant WEA staff are not available, under the following circumstances:

- (i) if the complaint involves the Executive Director
- (ii) if your manager or the Executive Director is not available
- (iii) if you feel that your complaint has not been properly dealt with.

The President will have the right to meet and assess this complaint with one other nominated WEA Sydney director.

#### **7. Other relevant WEA Sydney policies**

WEA staff (especially managers and supervisors), WEA students and other people in our workplace are encouraged to read this policy in conjunction with other relevant WEA Sydney policies, including:

- WEA Sydney – Workplace bullying prevention policy
- WEA Sydney – Sexual harassment prevention policy
- Other WEA Sydney policies which relate to work health and safety
- Other WEA Sydney policy documents such as the Directors' Code of Conduct, the WEA Sydney Code of Ethics, the WEA Sydney Code of Practice, the Equal Opportunities Policy, the Access and Equity Policy and the WEA Sydney Privacy Policy.

## 8. More information

If you have a query about this policy or need more information, please contact the Executive Director or another WEA Sydney manager. The **Australian Human Rights Commission** website (in relation to Commonwealth legislation about workplace harassment and discrimination) is at:

<https://www.humanrights.gov.au/>

The website of the **Anti-Discrimination Board of New South Wales** (in relation to New South Wales legislation about workplace harassment and discrimination) is at:

<http://www.antidiscrimination.justice.nsw.gov.au/>.

Publications of the Anti-Discrimination Board of New South Wales (including factsheets, guidelines and sample policies) can be found at: <https://antidiscrimination.nsw.gov.au/>

In addition, **Safe Work Australia** presents a variety of resources to assist employers to ensure the health and safety of their employees. There are specialist notes on bullying on the site, and also to work-related psychological health and safety, listed under their **National Guidance Material**. Here is the link to the full document <https://www.safeworkaustralia.gov.au>