

Fairness, Respect and Diversity

Operating Policy



Purpose

Arts Centre Melbourne (ACM) is committed to equal opportunity and diversity and promotes a work environment that is free from discrimination and harassment, and where individuals are treated with fairness, respect, equality and dignity.

ACM recognises the need for an open and inclusive workplace culture where diversity is valued and the social and cultural backgrounds of all employees are respected.

This policy outlines the process for dealing with complaints about bullying, discrimination, harassment and other unacceptable behaviours.

Scope

This policy applies to:

- (a) ACM team members, managers, directors and executives;
- (b) volunteers; interns and students gaining work experience; and
- (c) external parties, including contractors, stakeholders and members of the public.

Policy

1 What is bullying, discrimination, harassment and other unacceptable behavior?

Bullying

1.1 A person is bullied if:

- a) a person or group of people repeatedly act unreasonably towards them or a group of workers; and
- b) the behavior creates a risk to health and safety (including mental health).

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

Examples of bullying include:

- a) behaving aggressively;
- b) teasing or practical jokes;
- c) pressuring someone to behave inappropriately;
- d) excluding someone from work-related events;
- e) unreasonable work demands; or
- f) bullying carried out online or through mobile phones (cyber bullying).

1.3 Bullying does not include reasonable management action carried out in a reasonable manner in accordance with Performance and Conduct Improvement policies and procedures.

Discrimination

1.4 Discrimination occurs when someone is treated differently to others because of that person's individual characteristics or because that person belongs to a particular

group. Not all discrimination is unlawful; however, legislation states that discrimination on the basis of certain characteristics is unlawful. These characteristics include:

- (a) gender;
- (b) marital status;
- (c) pregnancy;
- (d) parental/family responsibilities;
- (e) race;
- (f) age;
- (g) disability;
- (h) sexual orientation;
- (i) transgender status;
- (j) political/religious beliefs;
- (k) trade union activity/inactivity; or
- (l) physical appearance.

1.5 Discrimination can be direct or indirect.

- (a) Direct discrimination is treating a person less favourably than other people in similar circumstances because of the person's particular characteristics like their race, religion or sex.
- (b) Indirect discrimination may occur when a requirement or rule that is the same for everyone has a disproportionate or disadvantageous effect for an individual or group of individuals that is unreasonable in the circumstances.

Harassment

1.6 Harassment is any form of behaviour (physical, spoken, or written) towards a person which:

- (a) is unwelcome and unsolicited;
- (b) the person considers to be offensive, intimidating, humiliating or threatening; or
- (c) a reasonable person would consider to be offensive, humiliating, intimidating or threatening.

1.7 Examples of workplace harassment include:

- (a) verbal abuse and constant ridicule;
- (b) repeated threats of dismissal;
- (c) persistent and unjustified criticisms or complaints, often about small things;
- (d) humiliating a person through gestures, sarcasm, criticism and insults;
- (e) spreading gossip or false, malicious rumours about a person; or
- (f) sabotaging a person's work, for example, by withholding or supplying incorrect information, hiding documents or equipment, not passing on messages and seeking to get a person into trouble.

Sexual Harassment

- 1.8 Sexual harassment is any unwanted or unwelcome sexual behaviour, which makes a person feel offended, humiliated or intimidated. It can include:
- (a) staring or leering;
 - (b) unnecessary familiarity, such as deliberately brushing up against another or unwelcome touching;
 - (c) suggestive comments or jokes;
 - (d) insults or taunts of a sexual nature;
 - (e) intrusive questions or statements about a person's private life;
 - (f) displaying posters, magazines or screen savers of a sexual nature;
 - (g) sending sexually explicit emails or text messages;
 - (h) inappropriate advances on social networking sites;
 - (i) accessing sexually explicit internet sites;
 - (j) requests for sex or repeated unwanted requests to go out on dates; or
 - (k) behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.
- 1.9 Sexual harassment is not interaction, flirtation or friendship which is mutual or consensual.

Vilification

- 1.10 Vilification is generally any act or words that could encourage others to hate, treat with contempt, or ridicule a person or a group of people for reasons including those listed above for discrimination and harassment. Vilification is against the law.

Victimisation

- 1.11 Victimisation is punishing or harassing a person because he or she has complained or intends to complain about being discriminated against, harassed, or vilified, or because the person has supported someone else who complained or intends to do so.

Stalking

- 1.12 Stalking occurs when someone gets repeated attention that intimidates or frightens them. Stalking can include:
- (a) following a person or loitering near a person's home or workplace;
 - (b) making unwanted phone calls or sending unwanted emails, text messages and messages on social media;
 - (c) publishing information about a person on the internet or via other means; or
 - (d) interfering with a person's property.

2 Equal Opportunity Employment

- 2.1 Employment decisions (including those relating to recruitment, promotion, employee benefits, conditions of employment/engagement, remuneration, transfer, discipline, training, work environment, work sponsored functions, supervision; and termination of employment) must be made on the basis of merit, and not on the basis of any of the following attributes:

- (a) Gender
- (b) Marital status
- (c) Pregnancy
- (d) Parental/family responsibilities
- (e) Race
- (f) Age
- (g) Disability
- (h) Sexual orientation
- (i) Transgender status
- (j) Political/religious beliefs
- (k) Trade union activity/inactivity
- (l) Physical appearance

3 Conduct Which Discourages Fairness, Respect and Diversity

- 3.1 ACM team members must not engage in conduct which discourages fairness, respect and diversity in the workplace. This includes bullying, vilification or victimisation, harassment, unlawful discrimination or stalking, whether in relation to their treatment of other employees, external parties, or any other person (including members of the public).
- 3.2 ACM will take steps to ensure the safety and welfare of the employees affected by a breach of this policy by an external party or any other person (including members of the public).
- 3.3 Breaches of this policy can cause serious health and safety problems in the workplace. In addition to physical risks to safety, employees who are subjected to, or witness inappropriate behaviour may feel intimidated or anxious at work. Through responsible management, ACM aims to prevent this kind of conduct from occurring in the workplace.
- 3.4 In addition, some conduct which occurs outside the workplace may also affect the work environment (e.g. conduct at social functions with colleagues, unwelcome contact with colleagues outside of work, public vilification of particular groups, etc).
- 3.5 Conduct which breaches this policy is unacceptable and depending on the severity and circumstances, may lead to disciplinary action.

4 Complaints

- 4.1 Complaints under this policy will be dealt with according to the procedure outlined in ACM's Employee Grievance Procedure.

5 EAP Support

- 5.1 ACM provides a free, confidential and independent Employee Assistance Program (EAP) to all ACM team members and their families. EAP services are available to all ACM team members involved in a grievance process. EAP services are provided by Davidson Trahaire Corpsych (DTC). They can be contacted on 1300 361 008.

6 Responsibilities

Role	Responsibilities
ACM team members	<p>Ensuring that they:</p> <ul style="list-style-type: none"> (a) are familiar with this policy; (b) comply with this policy; (c) do not breach this policy; (d) conduct themselves in accordance with the spirit of this policy by: <ul style="list-style-type: none"> • modelling appropriate behaviour to their colleagues; • not doing anything which would appear to condone breaches of this policy; and • offering support to anyone who is subjected to behaviour which breaches this policy; (e) report conduct which may breach this policy to a manager or to Human Resources; and cooperate with any investigation, program or system undertaken in line with this policy.
Managers and Directors	<p>Ensuring that this policy is administered effectively and appropriately in the areas for which they are responsible, including by:</p> <ul style="list-style-type: none"> (a) ensuring employee awareness and understanding of the policy; (b) promoting the spirit of this policy and consulting with employees about implementing those values; (c) monitoring the working environment to ensure that acceptable standards of conduct are observed at all times; (d) modeling appropriate behaviour; (e) ensuring that all employment, engagement, advancement and training decisions are consistent with this policy; (f) ensuring that any complaints or conduct which may breach this policy are addressed quickly and appropriately, including by cooperating with Human Resources and more senior managers; and (g) supporting, assisting and advising anyone who is subjected to behaviour which breaches this policy.
Human Resources	<p>Leading and facilitating investigative and disciplinary procedures in line with the Performance and Conduct Improvement Policy and Procedure and Employee Grievance Procedure.</p> <p>Coordinating and administering education and training programs for all employees in relation to this policy.</p> <p>Promoting the spirit of this policy and consulting with managers in relation to implementation of the policy.</p> <p>Coordinating and administering legislative compliance programs and reporting requirements in relation to this policy.</p> <p>Ensuring that all employment, engagement, advancement and training decisions are consistent with this policy.</p> <p>Ensuring complaints and conduct in breach this policy is addressed quickly and appropriately in cooperation with management.</p> <p>Supporting, assisting and advising managers in administering this policy.</p> <p>Supporting, assisting and advising anyone experiencing behaviour which breaches this policy.</p>

7 External assistance

7.1 Nothing in this policy is intended to affect the right of a person to seek external assistance in relation to bullying, discrimination, harassment or other unacceptable behavior.

Supporting Documentation

a) Forms and Records Management

Forms or records that are generated by the policy are as follows:

Form	Retention Period	Location
N/A		

b) Related Policies, Operating Procedures and Legislation

Policy or Operating Procedure	
<i>Fair Work Act 2009 (Cth)</i>	<i>Information Privacy Act 2000 (Vic)</i>
<i>Charter of Human Rights and Responsibilities Act 2006 (Vic)</i>	<i>Privacy Act 1988 (Cth)</i>
<i>Disability Discrimination Act 1992 (Cth)</i>	<i>Crimes Act 1958 (Vic)</i>
<i>Disability Act 2006 (Vic)</i>	<i>The Role You Play</i>
<i>Australian Human Rights Commission Act 1986 (Cth)</i>	<i>Enterprise Agreement 2015</i>
<i>Racial Discrimination Act 1975 (Cth)</i>	<i>Code of Conduct Policy</i>
<i>Sex Discrimination Act 1984 (Cth)</i>	<i>Fairness, Respect & Diversity Operating Policy</i>
<i>Equal Opportunity Act 2010 (Vic)</i>	<i>Performance and Conduct Improvement Policy and Procedure</i>
<i>Public Administration Act 2004 (Vic)</i>	<i>Protected Disclosure Guidelines</i>
<i>Age Discrimination Act 2004 (Cth)</i>	<i>Health and Safety Policy</i>
<i>Occupational Health and Safety Act 2004 (Vic)</i>	<i>Issue Resolution (Health and Safety) Procedure</i>
<i>Ombudsman Act 1973 (Vic)</i>	

Governance

a) Responsibility

Policy Owner	Executive Director, Human Resources
Approving Executive	Executive Director, Human Resources

b) Version Control and Change History

Version Number	Approval Date	Approved by	Amendment
1.0	November 2012	Executive, Corporate Services	First version
2.0	August 2016	Executive Director, Human Resources	Second version
Post Implementation Review			
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