

# POLICY

## 2.4 DISCRIMINATION, HARASSMENT AND BULLYING



Supporting Procedure:	2.7.1 Resolving Conflict Procedure	
Other Related Documents:	Policy 1.6 Grievance Resolution Policy 2.1 Recruitment Policy 2.5 Whistleblower Policy 2.10 Performance Management Policy 4.1 Code of Ethics Policy 4.10 Noongar Participation Policy 4.11 Privacy PHCC Incident Notification form Age Discrimination Act 2004 (Commonwealth) Disability Discrimination Act 1992 (Commonwealth) Equal Opportunity for Women in the Workplace Act 1999 (Commonwealth) Equal Opportunity Act 1984 (Western Australia) Fair Work Act 2009 Gender Reassignment Act 2000 Human Rights Commission Act 1986 (Commonwealth) Occupational Safety and Health Act 1984 (Western Australia) Racial Discrimination Act 1975 (Commonwealth) Sex Discrimination Act 1984 (Commonwealth) Work Place Relations Act 1996 (Commonwealth)	
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### Introduction

This Policy relates to Harassment, Discrimination and/or Bullying of, or between, Representatives of PHCC. PHCC is committed to providing a safe, equitable and respectful environment for Employees and Representatives free from all forms of discrimination, bullying and harassment.

All PHCC Representatives are required to treat others with dignity, courtesy and respect.

Representatives who breach this Policy may be subject to disciplinary action by PHCC, and Representatives who breach legislation may be subject to a prosecution.

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### Definitions

For the purposes of this Policy:

**“Bullying”** means unreasonable behaviour directed towards a worker or group of workers that creates a risk to health and safety. Bullying is repeated behaviour which makes another person feel intimidated, stressed, or unsafe and may be direct or indirect. Reasonable and respectful direction or guidance from management is not bullying

**‘Discrimination’** means treating a person (or group or people) unfairly and or disadvantaging them because of actual or assumed personal characteristic(s) including age, class, culture, religion, gender, sexual preference, race or disability (refer to 2.1)

**‘Employee’** means all paid employed persons in PHCC

**‘Harassment’** is behaviour that causes concern or distress to a person who perceives that the behaviour directed towards them is unwelcome, unjust, or unfair. Harassment may be a single incident or a series of incidents and includes behaviour which is discriminatory, offensive, abusive, belittling, humiliating threatening or intimidating

**‘Procedure’** is a documented process

**‘Representative’** means any Board Member, Employee, Volunteer, Contractor or any other person working for or representing PHCC

**‘Supervisor’** is an employee who is the direct report of another employee

**‘Workplace’** means any site, office, vehicle or place at or in which you conduct your work

### Policy Statement

- Harassment, Discrimination or Bullying will not be tolerated in the PHCC workplace.
- Harassment, Discrimination and Bullying may constitute unlawful behaviour against another person and may result in a prosecution.
- Workers or Representatives who become aware of Harassment, Discrimination or Bullying, or have good reason to believe there has been, or continues to be an occurrence, have a role in bringing this to the attention of an appropriate person.
- Harassment, Discrimination or Bullying incidents should be reported through the Grievance Resolution Policy (1.6).
- All allegations will be treated seriously and investigated promptly confidentially and impartially.

#### 1. Harassment and Bullying

- 1.1. Conduct that causes a person to feel offended, humiliated, intimidated, stressed, frightened, uncomfortable or less confident or able to do their work may be considered harassment
- 1.2. Genuine and reasonable disciplinary procedures, directions or performance related management are not bullying. Employers have the fundamental right to direct, monitor and control how work is done. For example comments which are objective and indicate observable deficiencies in performance or conduct do not constitute workplace bullying.

#### 2. Discrimination

- 2.1. Discrimination occurs in an employment context when a person is treated less favourably than another individual in the same or similar circumstances. Grounds of unlawful discrimination covered by the Act and include:

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- Age – being regarded as too young or old
- Breastfeeding – or bottle feeding
- Family responsibility – having a caring role
- Family status – being a relative of a particular person or having the status of being a relative
- Gender history – having a reassigned gender as under the Gender Reassignment Act 2000
- Impairment – having a current, past or assumed physical, intellectual or mental disability
- Marital status – being single, married, de facto, separated, divorced or widowed
- Political conviction – including a lack of conviction
- Pregnancy
- Race – including colour, ethnicity or national origin or descent
- Racial harassment – offensive or insulting comments or behaviour about a person's race
- Religious conviction – including a lack of conviction
- Gender
- Sexual harassment
- Sexual orientation

2.2. Indirect discrimination occurs when an unreasonable workplace rule or practice exists that appears neutral and fair on the surface but cannot be complied with by one or more individuals of a particular sex, race or disability, or any other related attribute.

### 3. Responsibilities and Rights of Employees/Representatives

- 3.1. Representatives are required to maintain and promote a workplace environment that is free from harassment, bullying and/or discrimination
- 3.2. All Representatives must proactively follow the associated policies and procedures to report an incident of harassment or discrimination if it arises
- 3.3. Where Employees are responsible for managing other Representatives, they are required to manage responsibilities and accountabilities relating to this Policy as an expectation of their performance
- 3.4. All Representatives must comply with this Policy, to not participate in harassing or discriminatory behaviour, and to report incidents to their Supervisor, or the Chairperson for Board Members
- 3.5. Representatives with complaints or claims of harassment, bullying or discrimination must notify their Supervisor or the Chairperson immediately and submit to the internal investigation/resolution process to achieve an equitable outcome for all concerned. Where the harassment, bullying or discrimination is from the Representative's Supervisor or the CEO, the Representative must notify their Program Manager or the Chairperson
- 3.6. PHCC expects all Supervisors to act responsibly and proactively in dealing with potential harassment or discrimination in the workplace including informing the CEO or, in the case of the CEO, the Chairperson
- 3.7. In the case of a serious personal incident involving harassment or discrimination, management are expected to follow the guidelines in Resolving Conflict Procedure in the first instance to ascertain the circumstances, then refer the matter to the CEO who may contact the Australian

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Human Rights Commission or a qualified lawyer if they require advice on a specific harassment or discrimination matter

- 3.8. Representatives who have experienced a serious personal incident involving harassment or discrimination may contact the Australian Human Rights Commission or a qualified lawyer independent of any PHCC investigation.

### 4. Discipline

- 4.1. Disciplinary action may be taken against any Representative found to have breached this policy and may include:
  - 4.2.1 An official warning and accompanying note on the Employee's personnel file
  - 4.2.2 Counselling
  - 4.2.3 Demotion
  - 4.2.4 Temporary suspension
  - 4.2.5 Dismissal
- 4.2. Harassment and discrimination are unlawful and offenders should be made aware that they may face criminal charges as a result of an external investigation regardless of any internal findings and/or disciplinary action.