

## **BULLYING, SEXUAL HARASSMENT and DISCRIMINATION POLICY**

### **Policy Statement**

Pickwick 1A is committed to providing a workplace environment inclusive of diversity and free from bullying, sexual harassment and discrimination.

### **Objectives of Policy**

This policy defines sexual harassment, discrimination and workplace bullying, and details the options available to resolve a complaint.

### **Application of Policy**

This policy covers all Pickwick 1A Workers and Managers. This policy applies to behaviours that occur:

- in connection with work, even if it occurs outside normal working hours
- during work activities, for example when dealing with clients
- at work-related events, for example at conferences and work-related social functions
- on social media where workers interact with colleagues or clients and / or the worker's actions may affect them either directly or indirectly

### **Policy**

Pickwick 1A has a zero-tolerance policy regarding bullying, sexual harassment, violence, victimisation and online bullying. These behaviours will lead to disciplinary action, which may include termination of employment.

Pickwick 1A take reports of bullying, sexual harassment and discrimination seriously and will respond promptly, impartially and confidentially.

Pickwick 1A require all employees to:

- behave in a responsible and professional manner
- treat others in the workplace with courtesy and respect
- listen and respond appropriately to the views and concerns of others
- be fair and honest in their dealings with others

### **Definitions**

**Attribute/characteristic** is a characteristic that a person has or a characteristic that is often associated to a person.

Such attributes include:

- age
- breastfeeding
- family responsibilities
- gender identity
- impairment
- lawful sex activity
- parental status
- political belief or activity
- pregnancy
- race
- relationship status
- religious belief or activity
- sex
- sexuality
- colour
- national extraction
- social origin
- trade union activity
- association with, or relation to, a person identified on the basis of any of these attributes.

Federal or State legislation may specify further attributes.

**Complaint** is the term used to describe the event in which a Worker communicates, verbally or written, their experience with, or witness of, any form of discrimination, workplace bullying or sexual harassment.

**Complainant** is the person who makes the complaint

**Discrimination** may be directly or indirectly imposed on individuals and occurs when someone is treated unfavourably because of an attribute / characteristic or affiliation with a specific individual or group with an attribute.

**Direct Discrimination** is treating a person less favourably or proposing to treat a person less favourably on the basis of an attribute or because they belong to a particular group with an attribute.

Examples of direct discrimination include:

- unfair treatment of a female applying for work in a male dominated industry
- lack of promotion or appointment due to racial / ethnic origin or religious / spiritual beliefs
- not employing a female because they have, or may have, family responsibilities
- not employing an openly LGBTQIA+ person because of their sexual orientation

**Indirect Discrimination** occurs when there is a requirement (rule, policy, practice, procedure) that is the same for everyone, but has an unequal affect or result on a group of Workers because of an attribute. Unless this type of requirement is “reasonable”, it is likely to be indirect discrimination. It does not matter that there was no intention to discriminate.

An example of indirect discrimination is a mandatory height, or particular physical requirement, for selection into a position may discriminate against women and certain racial groups, unless it can be proven that such a requirement is based on an inherent requirement of the position.

**Respondent** is the person against whom the allegations are made

**Sexual harassment** is any event in which:

- a person is subjected to an unsolicited act of physical intimacy (such as patting, pinching or touching in a sexual way)
- an unsolicited demand or request (whether directly or by implication) for sexual favours is made from the other person
- a person makes a remark with sexual connotations relating to the other person; or
- a person engages in any other unwelcome conduct of a sexual nature in relation to the other person

and the person who engages in the above behaviour does so:

- with the intention of offending, humiliating or intimidating the other person
- in circumstances where a reasonable person would have anticipated the possibility that the other person would be offended, humiliated or intimidated by the conduct.

Examples of sexual harassment include, but are not limited to:

- requests for sex
- displays of sexually graphic material including, social media (Facebook, Twitter, Instagram, etc.) emails, posters, pin-ups, cartoons, graffiti or messages left on notice boards, desks or common areas
- sexually explicit conversations or jokes
- persistent questions or insinuations about a person’s private life or sexual orientation

- uninvited touching or deliberately brushing against someone
- sex-based insults, taunts, teasing or name-calling
- staring at a person or their body parts

**Witness** is a person whom witnesses or may have witnessed behaviour in relation to the complaint and / or may have other relevant information relating to the complaint.

**Worker** means a person who carries out work in any capacity for Pickwick 1A including work as:

- an employee
- a contractor or subcontractor
- an employee of a contractor or subcontractor
- a trainee
- a student gaining work experience;
- a volunteer.
- an employee of a labour hire company who has been assigned to work at Pickwick 1A

The **Workplace** is any place where work is carried out by or for Pickwick 1A and includes any place where a worker goes, or is likely to be, while at work. A Workplace also includes any place where work related parties, events and functions are held.

**Workplace bullying** is repeated, unreasonable behaviour, directed towards a Worker or a group of Workers that creates a risk to health and safety. It includes both physical and psychological risks and abuse.

*'Repeated behaviour'* refers to the persistent nature of the behaviour and can refer to a range or pattern of behaviours over a period of time (for example, verbal abuse, unreasonable criticism, isolation and subsequently being denied opportunities — i.e. a pattern is being established from a series of events).

*'Unreasonable behaviour'* means behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten another person.

Examples of behaviour, whether intentional or unintentional, that may be considered to be workplace bullying if they are repeated, unreasonable and create a risk to health and safety include:

- abusive, insulting or offensive language or comments
- unjustified criticism or complaints
- continuously and deliberately excluding someone from workplace activities
- withholding information that is vital for effective work performance
- setting unreasonable timelines or constantly changing deadlines
- setting tasks that are unreasonably below or beyond a person's skill level
- denying access to information, supervision, consultation or resources such that it has a detriment to the worker
- spreading misinformation or malicious rumours
- changing work arrangements, such as rosters and leave, to deliberately inconvenience a particular worker or workers
- excessive scrutiny at work

Unreasonable behaviour may also include the following types of conduct:

- intimidation
- threats
- shouting
- coercion
- humiliation
- sarcasm

- victimization
- terrorizing
- singling-out
- malicious pranks
- physical abuse
- verbal abuse
- emotional abuse
- belittling
- bad faith
- harassment
- conspiracy to harm
- ganging-up
- isolation
- freezing-out
- ostracism
- innuendo
- rumor-mongering
- disrespect
- mobbing
- mocking
- victim-blaming
- discrimination.

A single incident of unreasonable behaviour does not constitute bullying. However, it should not be ignored as it may have the potential to escalate into bullying behaviour and is likely to be considered unacceptable workplace conduct.

### ***What does not constitute workplace bullying***

Reasonable management of staff does not constitute bullying, if done in a reasonable manner. Managers have the right, and are obliged to, manage their staff. This includes directing the way in which work is performed, undertaking performance reviews and providing feedback (even if negative) and disciplining and counselling staff.

Examples of reasonable management practices include, but are not limited to:

- setting reasonable performance goals, standards and deadlines
- rostering and allocating working hours where the requirements are reasonable
- transferring a worker for operational reasons
- deciding not to select a worker for promotion where a reasonable process is followed and documented
- informing a worker about unsatisfactory work performance when undertaken in accordance with any workplace policies or agreements such as performance management guidelines
- informing a worker about inappropriate behaviour in an objective and confidential way
- implementing organisational changes or restructuring
- termination of employment

***Victimisation*** is the term used to describe the unfavourable treatment of an individual or subjecting them to some form of detriment because the individual:

- has made a complaint or has proposed to make a complaint in accordance with the Policy
- has acted as a witness or has proposed to act as a witness in a complaint
- has supported a Complainant or intends to support a Complainant
- has been made a Respondent in a formal complaint investigation

***Vilification*** is different from discrimination. Vilification is a public act that incites hatred towards, serious contempt for, or severe ridicule of a person or group of persons because of a particular attribute, including gender identity, sexuality, race or religion, of the person or members of the group.

### **Complaints Procedure**

Complaints regarding bullying, sexual harassment and discrimination will be treated seriously, investigated promptly and dealt with confidentially and impartially. All persons involved will be treated with the utmost confidentiality, without jeopardising natural justice, to ensure all persons involved do not suffer victimisation or unfair treatment.

If you witness behaviour constituting bullying, sexual harassment and discrimination you should bring the matter to the attention of your Supervisor or Manager as a matter of urgency.

There are four steps when making a complaint and each step aims at a resolution. The choice of which step to begin with rests with the Complainant and will be informed by the nature of the complaint, the parties involved and how comfortable the Complainant is with the action involved in each step. Please note however a Worker cannot bring an issue to Pickwick 1A's attention and expect no action to be taken, especially where the issues raised are of a serious nature.

For all types of unacceptable behaviour it is important for Workers to report them as it may show a pattern, which will assist in developing preventative measures.

### **Step 1: Direct Approach**

The direct approach in this step involves the Complainant initiating and controlling the action.

Usually the Complainant initiates contact with the person or persons causing the complaint via a face to face discussion, or written correspondence.

This first step is a good step for the Complainant if the Complainant thinks it is likely that the Respondent is unaware that they are causing offence; knows the Respondent well and feels they can raise the issue with them; or if the problem appears relatively small or simple and the Complainant thinks that this step will address the problem with minimal fuss.

Resolution may be reached via a verbal or written apology. It is often useful for a Complainant to 'bounce' ideas about this step off one of the support people from step 2 before attempting to contact the Respondent.

### **Step 2: Internal Advice and / or Assistance**

The following support people are best placed to provide internal advice and assistance to Workers in these matters:

- Department Manager
- Manager

This step is best used to:

- Clarify the problem as perceived by the Complainant
- Advise the Complainant of the steps options available to them (i.e. Direct approach; external)
- Discuss indirect (e.g. general staff awareness; email reminders), and direct (e.g. mediation role; raise issue with Respondent) actions that can be taken by either the Complainant or the internal support person
- Ensure the Complainant is provided with support and advice to decide whether, and if so how, they wish to proceed with the complaint

Resolution may be reached, for example, via:

- A verbal or written apology
- The removal of offensive material
- Agreeing on terms of future interactions
- Re-education and training
- Modification to work practices
- Counselling
- Transfer
- Dismissal

### **Step 3: Formal Investigation**

The formal procedure focuses on proving whether a complaint is substantiated.

A Complainant may decide to follow the formal process in the following circumstances:

- When informal attempts at resolution have failed
- A person alleging discrimination, sexual harassment or bullying has been victimised
- Serious complaints of misconduct have been alleged
- The person alleging discrimination, sexual harassment or bullying has indicated they want to make a formal complaint at the outset of the process

The Complainant must put the complaint in writing. This is to include:

- What the Complainant saw or experienced
- Who was involved
- Whether there were any witnesses
- Other relevant information

If the Complainant wishes to pursue the complaint, the Complainant is to provide details of the Complaint to their Manager.

Pickwick 1A will appoint an appropriate person to investigate the complaint.

All procedures will be undertaken with discretion and confidentiality to protect the reputation of the parties involved. However, it may be necessary to speak with other workers in order to determine what happened and to those against whom the complaint has been made in order to afford natural justice.

The complaint investigator will privately interview the Complainant, any Witnesses and the Respondent(s) and collect any other relevant information to assist in making findings about the allegations.

The investigator will inform those to be interviewed of the investigation process, including that:

- they have the opportunity to have a support person present during their interview,
- it is a requirement that they maintain confidentiality and do not victimise anyone involved in the investigation,
- detailed records of the information they provide will be recorded, and
- in relation to the Respondent that they will have the opportunity to respond to the allegations made against them.

### **Step 4: External Advice and/or Assistance**

In circumstances where the complaint is unable to be resolved within the organisation, the matter may be referred by either party to an appropriate external body, such as the Queensland Civil and Administrative Tribunal, Work Health and Safety Department or Fair Work Commission.

Nothing in this policy prevents any person from lodging a formal complaint with the relevant authority or the police.

### **Complaints Involving Clients**

Where a complaint is made by or against a client or a client's employee, the Manager responsible for the client will be directly involved in attempting to resolve the matter by working with the client in an informal or formal resolution process.

### **Further Considerations**

The Complainant's interest should be carefully considered in the process and intermediate steps taken immediately to ensure that they are not required to work in a situation that may cause them to be the subject of further inappropriate behaviour.

Care will be taken to ensure the person making the complaint does not suffer any victimisation due to making the complaint and that action / steps are taken to prevent further unacceptable behaviour.

### **Consequences of Breach of Policy**

Based on the investigation outcome, Management will determine if action will be taken against the Respondent.

If, on the balance of probabilities, the complaint is substantiated, Pickwick 1A will take appropriate action to resolve the complaint. Appropriate action against the Respondent may include any combination of the following:

- gaining a commitment that the behaviour will not be repeated and monitoring this over time
- requesting an apology
- counselling
- conciliation / mediation conducted by an impartial third party to seek a mutually acceptable solution
- disciplinary action in the form of verbal, written or final warning
- dismissal.

Where the Respondent is not an employee, it may include the cessation of their engagement with Pickwick 1A.

Other actions undertaken by Pickwick 1A may include:

- Providing information to workers to raise the awareness of inappropriate workplace conduct
- Providing training or coaching
- Providing counselling support
- Reviewing the workplace bullying policy
- Addressing organisational issues that may have contributed to the behaviour occurring.

If the complaint is not substantiated, Pickwick 1A will advise the Complainant and Respondent, in writing, of the finding. However, Pickwick 1A may still take appropriate action to address any workplace issues leading or relating to the complaint.

If the complaint is found to be vexatious or malicious, disciplinary action will be taken against the person making the complaint and depending on the seriousness of the matter, such action may include dismissal or cessation of engagement with Pickwick 1A.

### **Victimisation**

Individuals who believe they have been subjected to victimisation should follow the Company's normal Complaints Procedure above. Pickwick 1A will act promptly to ensure the resolution is carried out fairly and professionally. Victimisation procedures will be carried out thoroughly even if the original complaint that led to the victimisation is resolved.

### **Preventative Action**

Pickwick 1A is committed to taking the following actions to minimise inappropriate behavior in the workplace:

- include information regarding acceptable workplace behaviour in the induction process
- provide specific bullying, sexual harassment and discrimination training
- require all Supervisors and Managers to lead by example and demonstrate appropriate workplace behaviour; and
- initiate appropriate complaints procedures.

### **Notification and Escalation of Concerns**

It is important that any workplace or work-related concerns you have are raised so they can be addressed. In the first instance you should speak of write to your direct manager or manager's manager.

For matters of a serious or confidential nature you should email Pickwick 1A at [confidential@pickwick1A.com.au](mailto:confidential@pickwick1A.com.au) and provide a means by which we can contact you. This email is monitored by a senior Pickwick 1A executive who will contact you in absolute confidence. If emailing to this address it is important you stick to facts and events you have personal knowledge or information about including dates and times where known. Pickwick 1A will deal with all disclosures to this email in accordance with legislative requirements including referring any allegation to the relevant authorities for further investigation. While genuine mistakes or errors can occur, it is important to refrain from making frivolous, false, misleading or unwarranted accusation towards another person as these can have severe implications for all parties involved, including the originator of any such allegation.

### **Right to Appeal**

If a Complainant or Respondent is dissatisfied with the outcome or resolution of a bullying, sexual harassment or discrimination complaint, that individual has the right to appeal the decision. The unsatisfied party may submit their written comments within 7 days of being advised of the outcome, to a member of the management team.

*Leanne Phillips*

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Pickwick 1A Facilities Services Pty Ltd  
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