

Workplace Discrimination & Harassment Policy

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Related Policies

- ChildFund Australia Code of Conduct
- Employee Grievance Policy & Procedure
- Complaints Policy & Procedure
- Child Safeguarding Policy & Procedure
- Disciplinary Procedure
- Communications Policy
- Prevention of Sexual Exploitation, Abuse & Harassment Policy
- Work, Health & Safety Policy

Objective

ChildFund Australia (ChildFund) offers a work environment where all individuals enjoy equal employment opportunities and can undertake their duties free from harassment, unlawful discrimination, bullying and victimisation. This aim is underpinned by Our Code of Conduct and Our Values.

ChildFund takes seriously its obligations to take all reasonable steps to prevent unlawful discrimination, harassment, bullying and victimisation. **ChildFund expressly prohibits such conduct.** Individuals may be personally liable if they engage in unlawful conduct. Individuals, who aid, abet, encourage or permit others to engage in conduct that is unlawful or in breach of this Policy may also be liable for their conduct.

This Policy explains what is appropriate behaviour at ChildFund and the obligations of its people in relation to discrimination, harassment, bullying and victimisation. The Policy also outlines the procedure for reporting instances of breaches of this Policy and the consequences of a Policy breach.

Policy Statement

ChildFund is committed to creating and maintaining a work environment where all individuals are treated with respect and enjoy equal opportunities for employment and advancement in the organisation, irrespective of personal attributes such as gender, race, age, religion, disability, marital status, sexuality, ethnicity or cultural identity. ChildFund endeavours to treat all Staff and prospective Staff fairly at all times during the Employment Relationship.

ChildFund is also committed to creating and maintaining a work environment that is free from discrimination, harassment, sexual harassment, racism, violence, bullying and victimisation.

ChildFund takes all reasonable steps to ensure that Staff are not subject to, or engage in, conduct that is in breach of applicable laws or this Policy. If Staff act in breach of this Policy they will be subject to disciplinary action which may include suspension, dismissal and, in the case of criminal conduct, referral to law enforcement agencies.

Scope

This policy applies to:

- Board members
- all employees including full-time, part-time or casual, temporary or permanent ; job candidates; student placements, interns, apprentices, contractors, sub-contractors and volunteers
- how ChildFund provides services to beneficiaries and partners 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 as a result of their ChildFund duties
- staff treatment of other staff, of beneficiaries and partners, and of other members of the public encountered in the course of their ChildFund duties.

Exclusions

'Nil'.

Definitions

Adverse Action includes doing, threatening or organising any of the following:

- unlawful termination of employment
- not giving an employee their legal entitlements such as pay or leave
- downgrading or changing an employee's job to their disadvantage
- treating an employee differently than others in a detrimental way
- not hiring someone without reasonable basis
- offering a potential employee different and unfair terms and conditions for the job compared to other employees.

Equal Employment Opportunity is the commitment that all people, regardless of gender, race, age, religion, disability, educational level, marital status, sexuality, ethnicity or cultural identity, have a right to be fairly considered for a job, job benefits and job advancement.

People/Person refers to all employees, interns, volunteers, directors, contractors, beneficiaries of any program or support, Partners, suppliers and service providers.

Reportable Conduct includes, but is not limited to:

- breaches of legal obligations (including negligence, breach of contract administrative law);
- criminal offences;
- engaging in acts of physical, sexual, emotional, psychological or financial abuse, exploitation or neglect of beneficiaries or Staff;
- mismanagement or the unauthorised use of organisational funds;
- actual or suspected fraud and/or corruption;
- abuse of authority;
- disclosures related to miscarriages of justice;
- health and safety risks, including risks to the public as well as other staff;
- other unethical conduct;
- damage to the environment;
- a breach of any internal Policy including (but not limited to) the Code of Conduct, Child Safeguarding Policy, etc.
- an intentional disclosure or misuse of sensitive information, or
- the concealment or failure to report knowledge of the above actions in themselves or others.

Workplace is the business location where the Staff usually undertake work activities, or where they are working remotely undertaking work activities (for example, undertaking a field visit or overseeing a program at a partner's location). This includes working outside usual business hours and any work-related events including conferences and social events either at the usual business location or an external location.

Staff refers to permanent or contract employees of ChildFund

Employment Relationship includes but is not limited to:

- recruitment and selection
- retention
- performance management
- terms, conditions and benefits
- learning and development, talent and succession planning
- promotion or secondment
- separation or termination of employment

Discrimination

Discrimination occurs when a person is treated less favourably in their employment because of attributes that include:

- race, colour, descent, national extraction¹, ethnic origin or social origin;
- sex, gender identity or intersex status;
- sexual orientation;
- age;
- physical, intellectual or mental disability or impairment;
- disease or injury, including work related injury;
- marital status, domestic status or relationship status;
- parental status, family responsibilities or carer's responsibilities;
- irrelevant criminal record;
- employment activity;
- pregnancy or potential pregnancy;
- religion or cultural beliefs;
- political opinion, industrial activity or trade union membership;
- physical features; and
- personal association with a person identified by reference to any of the above attributes.

A person can discriminate against another person even if they did not intend to do so, if they nevertheless treat that person less favourably, on one of the grounds listed above.

Examples of discrimination include:

- failing to offer training to an older worker because you assume they will retire soon;
- failing to give a female Staff a promotion because she has children or is pregnant;
- racially or culturally insensitive jokes or nicknames;
- offensive comments about a person's sexuality; and
- excluding or isolating a person because of their religion.

Discrimination happens when there is "adverse action", such as firing or demoting someone, because of a person's characteristics like their race, religion or sex.

Workplace Harassment

Workplace Harassment is unwanted and unreasonable conduct which intimidates, humiliates or offends. Behaviour which creates a hostile working environment for others can also constitute harassment.

Workplace harassment covers a wide range of behaviours. Some examples include (but are not limited to):

- abusing a person loudly, usually when others are present;
- significantly impairing the persons work in any way such as withholding information, removing content or altering the intent of the persons work;
- maliciously excluding and isolating a person from workplace activities that they would normally be involved in;

¹ "National Extraction includes distinctions made on the basis of a person's place of birth, ancestry or foreign origin, for instance, national or linguistic minorities, nationals who have acquired their citizenship by naturalization, and/ or descendants of foreign immigrants. The meaning of 'national extraction' is a little wider than 'nationality' or 'national origin'. Nationality is generally restricted to citizenship or a country but 'national extraction' refers to past history or precious circumstances as well as citizenship. National extraction means both the nation and the nationality from which a person is derived, either by birth or by self and community identification." (<https://www.fwc.gov.au/general-protections-benchbook/other-protections/discrimination/national-extraction>).

- spreading false information;
- making/sending offensive messages (e.g. via email, telephone, social media platforms or other means)
- persistent and unjustified criticisms, often about petty, irrelevant or insignificant matters.

Sexual Harassment

Sexual harassment occurs when a person:

- makes an unwelcome sexual advance;
- makes an unwelcome request for sexual favours; or
- engages in other unwelcome conduct of a sexual nature;

and a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the other person would be offended, humiliated or intimidated by that behaviour.

‘Conduct of a sexual nature’ includes:

- subjecting a person to any act of physical intimacy;
- making, orally or in writing, any remark or statement with sexual connotations to a person or about a person; and
- making any gesture, action or comment of a sexual nature.

Sexual harassment can involve physical, visual, verbal or non-verbal conduct of a sexual nature including one-off incidents or a series of incidents. It includes workplace behaviour or behaviour in connection with work, for example, at a festive season party or at a work function outside of work hours.

Depending on the circumstances, examples of sexual harassment include:

- displays of sexually graphic material including posters, pictures, calendars, cartoons, graffiti or messages left on boards or desks;
- electronic mail messages, voice mail messages, screen savers, any material of a sexual nature downloaded from the internet, or viewed on a computer, offensive telephone calls, faxes, or gifts;
- deliberate and unnecessary physical contact, such as patting, pinching, fondling or deliberately brushing against another body, attempts at kissing;
- leering or staring at a person’s body;
- sexually explicit posts on social media platforms;
- inappropriate ‘humour’ such as sexually suggestive or sexist jokes or comments;
- innuendo, including sexually provocative remarks, suggestive or derogatory comments about a person’s physical appearance, inferences of sexual morality or tales of sexual performance;
- repeatedly asking someone to meet them outside working hours, especially after prior refusal; and
- intrusive inquiries into a person’s private life or in reference to a person’s sexuality.

Racial Harassment

Racism at work, or racial harassment, consists of derogatory remarks, racially explicit statements, graffiti, jokes or any action of a racist nature which is directed at an individual or group from a particular ethnic or racial background, and which results in the individual(s) feeling intimidated, insulted, humiliated, embarrassed or offended, where a reasonable person would expect this to be the effect of the behaviour.

Racial harassment can be non-verbal, verbal or physical. Examples include:

- offensive gestures
- facial expressions or mimicry of accents

- offensive publications, letters or memos
- threatening behaviour/verbal threats
- racial jokes, comments or abuse.

Bullying

Workplace bullying is repeated and unreasonable actions or omissions which are undertaken by an individual or a group of individuals to gain power or dominance over another, and which are intended to create, or actually create, fear or distress, and a reasonable person would expect the behaviour to have that effect.

Bullying is a form of harassment and usually occurs when the behaviour is persistent and unwelcome from one individual or a group of individuals to another and this behaviour demeans or humiliates the individual.

Bullying can occur face-to-face, over the phone, via email, instant messaging or using mobile phone technologies including text messaging and social media platforms. Bullying can occur between workplace participants at all levels of the workplace, including downwards from managers to workers, sideways between workers and upwards from workers to managers.

Workplace bullying may be direct or indirect, verbal or physical. It can involve public humiliation, usage of offensive language, or deliberate exclusion of a Staff member from work meetings and/or social events without a legitimate reason.

Examples of direct bullying include:

- yelling, screaming or unreasonably raising your voice
- abusive, insulting or offensive language
- interfering with a person's personal property or work equipment
- displaying offensive material – pictures, calendars, pin-up posters which can be viewed as derogatory or unprofessional
- spreading misinformation or malicious rumours
- pranks or initiation practices.

Examples of indirect bullying include:

- setting tasks that are unreasonably below or beyond a person's skill level
- deliberately denying access to information, consultation or resources in order to undermine work performance
- unreasonably overloading a person with work or not providing enough work
- setting unreasonable deadlines
- deliberately changing work arrangements, such as rosters or planned or proposed leave, for the purpose of inconveniencing a particular workplace participant.

Workplace bullying does not include legitimate differences of opinion, or reasonable management action such as:

- allocating work to a workplace participant
- rostering and allocating work hours
- reasonable and legitimate performance management
- setting reasonable work goals, deadlines and standards (including performance management of an underperforming individual)
- reasonable supervision and performance of genuine work-based responsibilities
- legitimate restructuring or re-organising of a business, work or job
- transferring a workplace participant to a different department or role
- providing constructive feedback on unsatisfactory work performance
- deciding not to select a workplace participant for a promotion

- termination of employment.

Victimisation

Victimisation means subjecting or threatening to subject someone to a detriment, because they propose to, have, or are believed to have:

- asserted their rights under this Policy or other ChildFund Policies (for example Whistleblower Policy), or relevant legislation
- alleged that another person has breached this Policy or relevant legislation
- assisted someone in raising an issue under this Policy or relevant legislation.

A detriment in employment includes demotion, dismissal, transfer, suspension, loss of a benefit, being excluded from work or work-related social functions, or being the subject of gossip or innuendo.

At ChildFund it is unacceptable to retaliate against someone because they propose to, have, or are believed to have made, a complaint of unacceptable behaviour or Reportable Conduct under this Policy, other ChildFund Policies or relevant legislation.

Workplace Violence

Workplace violence can be a form of harassment or bullying, and includes behaviour such as physical assault, aggressive, threatening or intimidating behaviour and other disruptive behaviour. It can be physical or non-physical behaviour which may involve oral, written or electronic statements, gestures or expressions that communicate a direct or indirect threat of harm.

For example, aggressive behaviour such as an implied threat to exert influence over another's career opportunities as a result of not carrying out an instruction may be considered to be a demonstration of indirect workplace violence and/or workplace bullying and is not permitted in the workplace.

Certain forms of workplace violence, such as an assault, may also constitute a crime and may be referred to the police or other agencies.

Policy in Action

1. All recruitment and job selection decisions at ChildFund 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.
2. All staff are responsible for conducting themselves appropriately and at all times are prohibited from behaving in a manner that constitutes unlawful discrimination, harassment, bullying, victimisation or workplace violence.
3. A breach of this Policy is grounds for disciplinary action that may include suspension, dismissal and, if it constitutes criminal conduct, referral to law enforcement agencies.
4. ChildFund managers at all levels are responsible for modelling, maintaining and promoting high standards of conduct and acting quickly in response to any breaches of this Policy.
5. Any Person who believes they have been treated contrary to this Policy should use ChildFund's Grievance Policy and Procedure to raise the concern and seek resolution.
6. Any Person who observes behaviour occurring that could be discrimination, harassment, bullying, victimisation or workplace violence has an obligation to speak up, to their manager or POD.
7. Staff are encouraged to address any concerns internally at ChildFund in the first instance, however if they wish to make a complaint externally that is their right via various outside agencies.

8. ChildFund managers will periodically provide or arrange information and training for staff to ensure understanding of this Policy and expectations in regard to workplace behaviour.

Raising concerns and incidents

For any grievance or complaint raised under the Workplace Discrimination & Harassment Policy, the Employee Grievance and the Complaints procedure should be used (see Employee Grievance Policy & Procedure and the Complaints Policy & Procedure).

Every complaint will be handled in a positive manner and the person who raises the complaint will be treated respectfully at all times. If the Person raising the complaint is a child or youth, particular care and attention will be given.

Employee Assistance Program

ChildFund staff are entitled to a certain amount of free, professional counselling from our employee assistance program. Information on how to access the employee assistance program are available in the common drive.

Employee assistance program counselling is confidential and nothing discussed with a counsellor will be communicated back to ChildFund. Employee assistance program counselling is available free to ChildFund staff regardless of whether the issue is related to a workplace problem or some other issue for the staff member.

Staff are encouraged to address any concerns internally at ChildFund in the first instance, however if a Person wishes to pursue a complaint externally that is also their right via various outside Agencies.