

2. Human Resources

2a.1 Anti-Discrimination and Equal Employment Opportunities Policy

This policy must be read in conjunction with Riverina Conservatorium of Music (RCM) Human Resources Policies General Outline, Definitions and Relevant Legislations.

1. Purpose

- a. The Riverina Conservatorium of Music is committed to:
 - i. providing a safe environment where employees and others in the workplace are treated with respect, and are free from unlawful discrimination, harassment and vilification.
 - ii. creating a workplace culture which is focused on equality and respect which supports people to take bystander action;
 - iii. a safe and supportive complaints procedure:
 - iv. ensuring any workplace participants who make a complaint or takes bystander action in response to inappropriate behaviour is protected from victimisation.
- b. The RCM aims to ensure that when employment decisions are made, they are based on merit. The RCM also tries to create a work environment which promotes harmonious, respectful and professional working relationships.

2. Additional Definitions

- a. **Workplace Participants:** employees (whether full-time, part-time or casual) and all persons performing work at the direction of, or in connection with or on behalf of the RCM. Including but not limited to, agents, contractors (including temporary contractors), subcontractors, consultants, temporary staff (including work experience students, volunteers and interns).
- b. **Complaint recipient:** The HOD, Executive Team Member or RCM Staff Services Officer, who received the complaint.

3. Application of Policy

- a. The policy applies to all workplace participants of the RCM.
- b. This Policy is not limited to the workplace or work hours. This policy extends to all functions and places that are in connection with work for example, work lunches, conferences, Christmas parties and client functions. Equal Employment Opportunity (EEO) laws apply to all areas of employment, as well as the provision of goods and services.

- c. While every workplace participant is required to comply with this Policy (as amended from time to time), this Policy does not form part of a workplace participant's contract of employment or contract for service and does not create any rights enforceable by a workplace participant against the RCM.
- d. To the extent that there is an inconsistency between the law and this policy, the law will prevail.

3.1 Roles and Responsibilities

- a. All workplace participants must:
 - i. understand and comply with this policy;
 - ii. ensure they do not engage in any unlawful conduct towards other workplace participants, customers/clients or others with whom they come into contact through work;
 - iii. ensure they do not cause, instruct, induce, aid, abet or encourage other persons to engage in unlawful conduct;
 - iv. follow the complaint procedure in this Policy if they experience any unlawful conduct;
 - v. report any unlawful conduct they see occurring to others in the workplace in accordance with the complaint procedure in this Policy; and
 - vi. maintain confidentiality if they are involved in the complaint procedure.
- b. Workplace participants should be aware that legal action can be taken against them individually in which they can be held legally responsible for their unlawful conduct.
- c. Workplace participants, who cause, instruct, induce, aid, abet, permit or encourage other persons to engage in unlawful conduct, can also be legally liable.

4. Details

4.1 Gender equality in the workplace

- a. The RCM aims to fulfil its obligations under the Workplace Gender Equality Act 2012 (Cth) ('the **Act**'), by attempting to eliminate discrimination and contributes to gender equality in employment and in the workplace.
- b. The aim of the RCM's actions are to:
 - i. endorse gender equality (including equal remuneration between women and men) in employment and in the workplace;
 - ii. support employers to remove barriers to the full and equal participation of women in the workforce, in recognition of the disadvantaged position of women in relation to employment matters;

- iii. promote, amongst employers, the elimination of discrimination on the basis of gender in relation to employment matters (including in relation to family and caring responsibilities);
 - iv. foster workplace consultation between employers and employees on issues concerning gender equality in employment and in the workplace; and
- c. These actions are about attempting to achieve the potential of all workplace participants. Benefits may include increased productivity, increased morale, reduced absenteeism, and higher retention rates of employees.

4.2 EEO laws

Under EEO laws, discrimination, vilification, sexual harassment, sex-based harassment, bullying and victimisation in the workplace are unlawful and strictly prohibited.

4.3 Direct discrimination

Direct discrimination in employment occurs when a person is treated less favourably than another in their employment because of a reason or ground which is prohibited by law. The prohibited grounds of discrimination are set out in the Federal, State and Territory anti-discrimination laws and include sex, race, age etc. Grounds of discrimination which operate federally and in the State and/or Territories in which workplace participants undertake their work for the RCM include those listed below:

- i. Race (including colour, nationality, descent, ethnic, ethno-religious or national origin)
- ii. Religious belief, affiliation, conviction or activity
- iii. Sex
- iv. Marital status, domestic status, relationship status
- v. Pregnancy (including potential pregnancy)
- vi. Homosexuality, transsexuality and transgender status, sexuality, sexual preference/orientation, lawful sexual activity, gender identity, intersex status
- vii. Carers' responsibilities, family responsibilities, carer or parental status, being childless
- viii. Disability/impairment, including physical, mental and intellectual disability
- ix. Breastfeeding
- x. Age (including compulsory retirement)
- xi. Industrial/trade union membership, non-membership or activity
- xii. Political belief, opinion, affiliation, conviction or activity

- xiii. Employer association membership, non-membership or activity
- xiv. Irrelevant criminal record (State and Territory legislation may vary)
- xv. HIV/AIDS
- xvi. Defence service

4.4 Indirect Discrimination

- a. Indirect discrimination may occur when an employer imposes a policy, requirement or condition which applies to everyone equally, but it in fact operates to disadvantage a particular group because of a characteristic of that group, such as their sex, age, race (i.e. a prohibited ground of discrimination).
- b. Example: An employer imposes a height restriction on all applicants for the position of 'Security Officer', that is, an applicant must be over 185cm (6 feet) tall in order to be considered for the position. This requirement at first glance appears fair because it applies to all applicants irrespective of gender. However, in practice this requirement will disadvantage women as a group because statistically, women are naturally shorter than men. So the effect is to disadvantage women because of their sex.

4.5 Discrimination and Harassment

- a. Discrimination also includes the situation where a workplace participant harasses another person based on a ground of discrimination. Harassment is unwelcome conduct that a reasonable person would expect to offend, humiliate or intimidate.
- b. Please refer to The RCM Workplace Bullying and Harassment Policy for more information in relation to workplace harassment.

4.6 Vilification

Vilification is a public act which incites hatred, severe contempt or severe ridicule of a person or group, because of race, homosexuality, transgender, transsexuality or HIV/AIDS. Vilification is a particularly serious breach of EEO laws and will be dealt with accordingly.

4.7 Sexual Harassment

- a. Workplace sexual harassment is unwelcome sexual advances, unwelcome requests for sexual favours and/or unwelcome conduct of a sexual nature that occurs in connection with work, which makes a person feel offended, humiliated or intimidated where a reasonable person would anticipate that reaction in the circumstances. Conduct can amount to sexual harassment even if the person did not intend to offend, humiliate or intimidate the other person. Sexual

harassment does not have to be directed at a particular individual to be unlawful.

- b. Please refer to The RCM Workplace Sexual Harassment Policy for more information in relation to sexual harassment.

4.8 Harassment of the Grounds of Sex

- a. Harassment on the ground of sex is a form of harassing conduct based on a person's sex, but which is not necessarily sexual in nature. Harassment of the ground of sex is unlawful and means where a person engages in unwelcome conduct of a seriously demeaning nature in relation to the person harassed by reason of that person's sex, or a characteristic that appertains generally, or is imputed, to persons of the sex of the person harassed. The person does this in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.
- b. Examples of harassment on the ground of sex include, but are not limited to:
 - i. making inappropriate comments and/or jokes about a person based on their sex (e.g. joking about a woman being 'hormonal' based on her menstrual cycle or experience of menopause, or criticising a male teacher's ability to teach because he is a man);
 - ii. asking intrusive personal questions based on a person's sex;
 - iii. displaying images or materials that are sexist, misogynistic or misandrist;
 - iv. making sexist, misogynistic or misandrist remarks about a specific person; and
 - v. requesting a person to engage in degrading conduct based on their sex.

4.9 Bullying

- a. Bullying is repeated, unreasonable and inappropriate behaviour directed towards an individual or group, which creates a risk to health and safety.
- b. Please refer to The RCM Workplace Bullying and Harassment Policy for more information in relation to workplace bullying.

4.10 Victimisation

- a. Victimisation is where a person is retaliated against or subjected to a detriment because they have lodged a complaint, they intend to lodge a complaint or they are involved in a complaint of unlawful conduct. Workplace participants must not retaliate against a person who raises a complaint or subject them to any detriment.

- b. Victimization is unlawful and will not be tolerated by the RCM. Any person found to victimise, harass or take reprisal action against individuals participating in procedures associated with this policy may be subject to separate disciplinary action.

4.11 Bystander Intervention

- a. Bystanders who witness or are aware of inappropriate behaviour in breach of this policy occurring in the workplace, can play an important role in preventing such behaviour.
- b. Bystanders that are aware of inappropriate behaviour in breach of this policy occurring are encouraged to:
 - i. Provide support to the individual who is being subjected to the behaviour;
 - ii. Formally or informally challenge concerning behaviour; and
 - iii. Report the behaviour
- c. The RCM will not tolerate any victimisation, bullying, harassment or intimidation against those who take bystander action.

4.12 Breach of this Policy

- a. All workplace participants are required to comply with this policy at all times. If a workplace participant breaches this policy, they may be subject to disciplinary action, up to and including termination of employment.
- b. Persons performing work at the direction of, or in connection with or on behalf of the RCM (for example agents and contractors) who are found to have breached this policy may have their contract(s) with the RCM terminated or not renewed.
- c. Non-compliance with this policy may also breach applicable EEO law or health and safety laws and may result in legal proceedings being commenced against the individual. In the event of legal proceedings, individuals may be exposed to legal costs, penalties, orders to pay compensation and even imprisonment in some circumstances.
- d. Workers, who cause, instruct, induce, aid, abet, or encourage or permit other persons to engage in unlawful conduct, can also be legally liable.
- e. If a person makes an unfounded complaint or a false complaint in bad faith (e.g. making up a complaint to get someone else in trouble or making a complaint where there is no foundation for the complaint), that person may be disciplined and may be exposed to a defamation claim.

4.13 Complaint Handling Procedure

- a.** If a workplace participant feels that they have been subjected to any form of unlawful conduct contrary to EEO laws or this policy or is a witness to such conduct, they should not ignore it. The RCM has the following complaint procedure for dealing with these issues. The complaint procedure has numerous options available to suit the particular circumstances of each individual situation.
- b.** The manner in which a complaint will be handled is solely at the discretion of the RCM Director (CEO).
- c.** Whilst the RCM will endeavour to outline the complaint process options available to a complainant and may seek their views, it will not always be appropriate for the complainant to determine the procedure.

4.14 Examples of the ways in which a complaint can be dealt with

Self-help approach (if appropriate)

- a.** If a workplace participant feels comfortable doing so, they should address the issue directly with the person concerned. A workplace participant should identify the offensive behaviour, explain that the behaviour is unwelcome and offensive and ask that the behaviour stop.
- b.** In some instances, informing the instigator that their behaviour is inappropriate and unwelcome, and asking for it to stop may be sufficient, particularly if the individual was unaware of the impact of their behaviour.
- c.** If a workplace participant is unsure about how to handle a situation and is also unsure if they want to make a complaint, they should contact a HOD, Executive Team Member or RCM Staff Services Officer for support and guidance.

Report the issue

- a.** A workplace participant should report the issue to a HOD, Executive Team Member or RCM Staff Services Officer, hereafter referred to as “the Complaint recipient”.
- b.** The Complaint Recipient, will aim to deal with the workplace participant’s complaint in accordance with this policy. There are two complaint procedures that can be used: informal and formal (detailed further below). The type of complaint procedure used will be determined by the nature of the complaint that is made.

Informal complaint procedure

- a. Under the informal complaint procedure there is a broad range of options for addressing the complaint. The procedure used to address the issue will depend on the individual circumstances of the case. Possible options include, but are not limited to:
 - i. the Complaint Recipient discussing the issue with the person against whom the complaint is made; and/or
 - ii. the Complaint Recipient facilitating a meeting between the parties in an attempt to resolve the issue and move forward.
- b. The informal complaint procedure is more suited to less serious allegations that if substantiated, might not warrant disciplinary action being taken.

Formal complaint procedure

- a. The formal complaint procedure involves a formal investigation of the complaint. Formal investigations may be conducted by a Complaint Recipient or a person from outside the RCM, appointed by the RCM. The RCM has the discretion to determine which option will be adopted.
- b. An investigation generally involves, collecting information about the complaint and then making a finding based on the available information as to whether or not the alleged behaviour occurred. Once a finding is made, the Complaint Recipient or the external investigator will make recommendations about resolving the complaint.
- c. If the RCM considers it appropriate for the safe and efficient conduct of an investigation, workplace participants may be required not to report for work during the period of an investigation. The RCM may also provide alternative duties or work during the investigation period. Generally, employees will be paid their normal pay during any such period.

4.15 Confidentiality

- a. The Complaint Recipient will endeavour to maintain confidentiality to the extent possible, taking into account the RCM's obligation to provide a safe workplace, afford natural justice to the respondent and require disciplinary action.
- b. All workplace participants involved in the complaint must also maintain confidentiality, including the workplace participant who lodges the complaint. Spreading rumours or gossip may expose workplace participants to a defamation claim. Workplace participants may discuss the complaint with a designated support person or representative (who is not a workplace participant

employed or engaged by the RCM. However, the support person or representative must also maintain confidentiality.

4.16 Possible Outcomes

- a.** The possible outcomes will depend on the nature of the complaint and the procedure followed to address the complaint. Where an investigation results in a finding that a person has engaged in unlawful conduct or breached this policy, that person may be disciplined. The type and severity of disciplinary action will depend on the nature of the complaint and other relevant factors. Where the investigation results in a finding that the person complained against has engaged in serious misconduct, this may result in instant dismissal. Any disciplinary action is a confidential matter between the affected workplace participant and The RCM.
- b.** Agents and contractors (including temporary contractors) who are found to have engaged in unlawful conduct and/or breached this policy may have their contracts with The RCM terminated or not renewed.
- c.** The RCM may take a range of other non-disciplinary outcomes to resolve a complaint, depending on the particular circumstances. Examples include, but are not limited to:
 - i. training to assist in addressing the problems underpinning the complaint;
 - ii. monitoring to ensure that there are no further problems;
 - iii. implementing a new policy;
 - iv. requiring an apology or an undertaking that certain behaviour stop; and/or
 - v. changing work arrangements.

4.17 What to do if you are not Satisfied with the Outcome

Review

- a.** If any of the parties are not satisfied with the way the complaint was handled or the outcome of the complaint process, they can contact the RCM's Chairman of the Board of Management. The complaint handling process and/or the outcome may then be reviewed by the board. If a review is undertaken, the RCM's Chairman of the Board of Management decision in relation to the review will be final.
- b.** The RCM's goal is to resolve issues in-house wherever possible, however workplace participants can seek the assistance of an outside agency if they feel that their complaint has not been adequately addressed.

5. Variations

- a. If a worker is unsure about any matter covered by this Policy, they should seek the assistance of the Executive Team Member(s).
- b. *The RCM reserves the right to vary, replace or terminate this policy from time to time.*

Policy version and revision information

Policy drafted by: Hamish Tait

Policy drafted: 2003

Ratified by RCM Board of Directors: 2003

Policy reviewed by: Venita Riordan

Policy reviewed: September 2023

Reviewed policy ratified by RCM Board of Directors: 20th March 2024