

## 2. Human Resources

### 2a.2 Bullying and Harassment 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 RCM aims to provide a safe and healthy work environment, so far as is reasonably practicable, in which all workers are treated fairly, with dignity and respect. Bullying and harassment is a risk to the health and safety in the workplace, and will not be tolerated by the RCM.
- b. This policy outlines the RCM's commitment to a safe workplace and is aimed at ensuring, so far as it reasonably can, that employees are not subjected to any form of bullying or harassment while at work. It also details the legal responsibilities of the RCM and workplace participants in relation to preventing bullying in the workplace.

#### 2. Additional Definitions

- a. **Harassment:** is any unwelcome behaviour that offends, humiliates or intimidates a person. Harassment can be against the law when a person is treated less favourably on the basis of certain personal characteristics, such as race, sex, pregnancy, marital status, breastfeeding, age, disability, sexual orientation, gender identity or intersex status. Some limited exemptions and exceptions apply.
- b. **Bullying:** is repeated, unreasonable behaviour by an individual or group of individuals, 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.
- c. **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).

#### 3. Application of Policy

- a. This policy covers all workplace participants of the RCM.
- b. This policy extends to all functions and places that are work related, for example, work lunches, conferences, Christmas parties and client functions.
- c. This policy covers electronic environments, for example, email, social media and any other form of computer based communication.
- d. This policy does not form part of any employee's contract of employment. Nor does it form part of any contract for service.

### **3.1 Roles and Responsibilities**

- a. Everyone at the workplace has a legal responsibility to prevent bullying from occurring.
- b. Under relevant health and safety legislation (the 'WHS Legislation') the RCM has the primary duty to eliminate or minimise, as far as reasonable practicable, the risks to health and safety in the workplace. This duty includes the implementation of strategies to prevent workplace bullying. This policy will assist the RCM in complying with its legal responsibilities.
- c. Workplace participants are also required under the WHS Legislation to take reasonable care for their own health and safety, as well as that of others at the RCM's workplace. All workplace participants must also comply with any reasonable instruction given by the RCM.
- d. Specifically the Executive Team and Heads of Department must:
  - i. ensure that they do not bully workplace participants, clients or customers
  - ii. ensure that they do not aid, abet or encourage other persons to engage in bullying behaviour
  - iii. ensure all workplace participants who report to them are aware and understand this policy and their responsibility to comply with it
  - iv. ensure that all workplace participants who report to them understand that any bullying in any form is unacceptable and will not be tolerated by the RCM
  - v. act promptly and appropriately if they observe bullying behaviours
  - vi. ensure that all workplace participants who report to them understand that they should report any bullying behaviour
  - vii. ensure all workplace participants who report to them are aware and understand the complaint procedures
  - viii. act promptly if a complaint is made. If this is not possible, or is inappropriate, inform the Director (CEO) as soon as possible.
- e. Specifically all workplace participants must:
  - i. understand and comply with this policy
  - ii. ensure they do not engage in any conduct which may constitute bullying towards other workplace participants, students or others with whom they come into contact through work
  - iii. ensure they do not aid, abet or encourage other persons to engage in bullying behaviour
  - iv. follow the RCM's complaint procedure if they experience bullying

- v. report any bullying they see occurring to others in the workplace in accordance with this policy
- vi. maintain confidentiality if they are involved in the incident which has been reported.

## **4. Details**

### **4.1 Harassment**

- a. Unlawful harassment is any form of conduct or behaviour which affects a person that:
  - i. is unwelcome (not wanted) or uninvited (not asked for);
  - ii. is based on one of the unlawful reasons; and
  - iii. is behaviour that a reasonable person would have anticipated might humiliate, offend or intimidate the person being harassed.
- b. Harassment can take many forms, it may be physical, verbal or non-verbal in nature. It can occur in a one-off event, or across a series of interactions. What is important is the way the person on the receiving end feels, not the intention or motive of the perpetrator. Workplace harassment can occur in a broad range of places and times, including in the office, at work-related social functions and on social media.
- c. A single incident of unwanted or offensive behaviour can amount to harassment.

### **4.2 Unlawful Harassment**

- a. Types of unlawful harassment include, but are not limited to:
  - i. sexual harassment;
  - ii. verbal abuse or comments that degrade or stereotype people because of their race, sex, sexual orientation, pregnancy, disability, etc.;
  - iii. jokes based on race, sex, sexual orientation, pregnancy, disability etc.;
  - iv. mimicking someone's accent, or the habits of someone with a disability;
  - v. offensive gestures based on race, sex, sexual orientation, pregnancy, disability, etc.;
  - vi. bullying a person because of their race, sex, sexual orientation, pregnancy, disability, etc.;
  - vii. ignoring or isolating a person or group because of their race, sex, sexual orientation, pregnancy, disability, etc.; or
  - viii. display or circulation of racist, pornographic or other offensive material (including in electronic format).
- b. These examples are not exhaustive and disciplinary action at the appropriate level will be taken against employees committing any form of harassment.

### **4.3 Bullying**

- a. Workplace bullying is repeated, unreasonable behaviour by an individual or group of individuals, 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.
- b. 'Repeated behaviour' refers to the persistent nature of 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).
- c. 'Unreasonable behaviour' means behaviour that a reasonable person, having regard to all the circumstances, would view as unreasonable in the circumstances and may result in that employee feeling victimised, humiliated, undermined or threatened by that behaviour, regardless of what the intention of the behaviour is.

### **4.4 Examples of Workplace Bullying**

- a. Bullying behaviours can take many different forms, from the obvious (direct) to the more subtle (indirect). The following are some examples of both direct and indirect bullying.

Direct bullying:

- i. abusive, insulting or offensive language or comments
- ii. spreading misinformation or malicious rumours
- iii. behaviour or language that frightens, humiliates, belittles or degrades, including over criticising, or criticism that is delivered with yelling or screaming
- iv. displaying offensive material
- v. inappropriate comments about a person's appearance, lifestyle, family, sexual preferences or any personal or private matter
- vi. teasing or regularly making someone the focus of pranks or practical jokes
- vii. interfering with a person's personal property or work equipment, or
- viii. harmful or offensive initiation practices.

Indirect bullying:

- i. unreasonably overloading a person with work, or not providing enough work

- ii. setting timeframes that are difficult to achieve, or constantly changing them
  - iii. setting tasks that are unreasonably below, or above, a person's skill level
  - iv. deliberately excluding or isolating a person from normal work activities
  - v. withholding information that is necessary for effective performance of the person's job
  - vi. deliberately denying access to resources or workplace benefit and entitlements, for example training, leave etc.
  - vii. deliberately changing work arrangements, such as rosters and leave, to inconvenience a particular worker or workers
- b.** The above examples do not represent a complete list of bullying behaviours. They are indicative of the type of behaviours which may constitute bullying and therefore are unacceptable to the RCM.
- c.** A single incident of unreasonable behaviour does not usually constitute bullying. However, it should not be ignored as it may have the potential to escalate into bullying behaviour.
- d.** A person's intention is irrelevant when determining if bullying has occurred. Bullying can occur unintentionally, where actions which are not intended to victimise, humiliate, undermine or threaten a person actually have that effect.
- e.** Bullying in the workplace is harmful not only to the target of the behaviour but damages the RCM's culture and reputation. It is unacceptable and will not be tolerated.

#### **4.5 What does not Constitute Workplace Bullying**

- a.** Managing workplace participants does not constitute bullying, if it is done in a reasonable manner. The Executive Team and Heads of Department have the right, and are obliged to, manage workplace participants. 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:
- i. setting reasonable performance goals, standards and deadlines in consultation with workers and after considering their respective skills and experience
  - ii. allocating work fairly
  - iii. rostering and allocating working hours in a fair and reasonable manner
  - iv. deciding not to select a workplace participant for promotion, following a fair and documented process

- v. informing a workplace participant about unsatisfactory work performance in a constructive way and in accordance with any workplace policies or agreements
- vi. informing a workplace participant about inappropriate behaviour in an objective and confidential way
- vii. implementing organisational changes or restructuring, and
- viii. conducting performance management processes.

#### **4.6 Steps the RCM will take to Prevent Workplace Bullying**

- a. The RCM will take all reasonable steps to prevent bullying through a risk management process. This process includes, but is not limited to:
  - i. identification of bullying risk factors — these are issues and situations which could contribute to bullying such as the way in which staff are managed, or organisational changes such as redundancies (refer to the common risk factors set out below);
  - ii. assessment of the likelihood of bullying occurring from the risk factors identified and their potential impact on the workplace participants or workplace;
  - iii. eliminating the risks, as far as reasonably practicable, or controlling, or minimising, them as far as reasonably practicable;
  - iv. reviewing the effectiveness of the control methods put in place and the process generally; and
  - v. informing and training workplace participants about bullying, how to deal with it and its impact on the workplace.
- b. The RCM will use a Workplace Bullying Assessment Checklist to facilitate the risk management process. This checklist has been developed to assist the RCM to identify, assess and eliminate bullying in the workplace, taking into account the common risk factors (refer below).
- c. Bullying can result from a number of different factors in a workplace, from the general culture to poor management skills. Some common risk factors which make bullying more likely to occur are:
  - i. organisational change — i.e. significant change in the workplace that may lead to job insecurity for example, restructure and redundancy, introduction of technology, change in management.
  - ii. the culture — the RCM's values, views and beliefs can either expressly or implicitly encourage bullying behaviours, for example, when a company promotes aggressive behaviour as a means of ensuring its workers are performing their roles, or adopts a culture in which it is acceptable to ignore such behaviours.

- iii. negative leadership styles — such as strict, autocratic management styles, which do not allow for flexibility or involvement by employees; or passive, ‘laissez-faire’ management styles which are characterised by a tendency to avoid decisions, inadequate supervision and little guidance to workers.
  - iv. inappropriate systems of work — this includes excessive workloads, unreasonable timeframes, uncertainty about roles and how they should be performed, and lack of support.
  - v. poor work relationships — this can be characterised by poor communication between workplace participants and management, or negative relationships with supervisors or colleagues, excessive criticism by Head of Department and the exclusion or isolation of workers.
  - vi. workforce characteristics – groups of workplace participants may be at a higher risk of bullying because of certain characteristics: for example, young workers, new workers, apprentices, injured workers, workers in a minority group because of their race, disability, religion, gender or sexual preference.
- d. The RCM will consider these factors when undertaking its risk management process.

#### **4.7 Bullying and Harassment Complaint Procedures**

- a. If a workplace participant feels that they have been bullied, they should not ignore it.
- b. The RCM has a complaint procedure for dealing with harassment and bullying (set out below). The complaint procedure has numerous options available to suit the particular circumstances of each individual situation. The procedure should be referred to and followed.
- c. Any bullying issue should be brought to the RCM’s attention as soon as possible. There are a number of options available to workplace participants.

##### Confront the issue

- i. If a workplace participant feels comfortable doing so, they should address the issue directly with the person concerned. A workplace participant should identify the bullying behaviour, explain that the behaviour is unwelcome and offensive and ask that the behaviour stop.
- ii. This is not a compulsory step. If a workplace participant does not feel comfortable confronting the person, or the workplace participant confronts the person and the behaviour continues, the worker should

report the issue to their Head of Department. If the Head of Department is the alleged perpetrator, then the matter should be reported to the Director (CEO).

- iii. If a workplace participant is unsure about how to handle a situation they should contact the HOD, Executive Team Member or Staff Services Officer for support and guidance.

### Report the issue

There are two complaint procedures that can be used to resolve bullying complaints: informal and formal (detailed further below). The type of complaint procedure used depends on the nature of the complaint that is made. The aim is to ensure that workplace participants are able to return to a productive and harmonious working relationship as soon as possible.

### Informal complaint procedure

- i. 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:
- ii. the Director(CEO) discussing the issue with the person against whom the complaint is made; and/or
- iii. the Director (CEO) facilitating a meeting between the parties in an attempt to resolve the issue and move forward.
- iv. The informal complaint procedure is more suited to less serious allegations that if substantiated, might not warrant disciplinary action being taken.

### Formal complaint procedure

The formal complaint procedure involves the workplace participant making a written complaint and a formal investigation of that complaint. Formal investigations may be conducted by the RCM or by an external investigator appointed by the RCM. If possible, you should keep notes of the bullying or harassment so that the written complaint can include:



- i. the name of the alleged bully or harasser;
  - ii. the nature of the alleged incident of bullying or harassment;
  - iii. the dates and times when the alleged incident of bullying or harassment occurred;
  - iv. the names of any witnesses; and
  - v. any action already taken by you to stop the alleged bullying or harassment.
- d. 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 RCM or the external investigator will make recommendations about what actions should be taken to resolve the complaint and any appropriate disciplinary action.
- e. If the RCM considers it appropriate for the safe and efficient conduct of an investigation, workers 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, workplace participants will be paid their normal pay during any such period.

#### **Complaints against the Director**

If the complaint relates to the conduct of the RCM Director, the complaint should be addressed to the Chair of the RCM Board of Management or the Vice-Chair in the absence of the Chair.

#### **Serious or Criminal Behaviour**

Any threats of physical violence, or use of a weapon should be firstly reported directly to the police and then the RCM Director.

#### **Child Protection Matters**

Please refer to The RCM Child Protection Policy.

### **4.8 Dealing with Bullying Complaints**

- a. In handling bullying complaints, the RCM will adopt the following principles:
  - i. Take all complaints seriously.
  - ii. Act promptly to investigate the matter.
  - iii. Will not victimise any person who makes a complaint, any person accused of bullying, or any witnesses and will direct other workplace participants not to victimise any person involved in a complaint.
  - iv. Support all parties.
  - v. Be impartial.

- vi. Communicate the investigation or complaint process to all parties involved.
- vii. Maintain confidentiality: the RCM will endeavour to maintain confidentiality as far as possible. However, it may be necessary to speak with other workers in order to determine what happened, to legal representatives or the RCM's board members. It will also be necessary to speak to those against whom the complaint has been made in order to afford fairness. 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 the workplace participant responsible to a defamation claim.
- viii. Act appropriately: if a complaint is made and it appears that bullying has occurred, the RCM will endeavour to take appropriate action in relation to the complaint.
- ix. Keep records: documentation is essential. A record of all meetings and interviews stating who was present and agreed outcomes should always be maintained.

#### **4.9 Possible Outcomes**

- a. The possible outcomes of an investigation will depend on the nature of the complaint. Where an investigation results in a finding that a person has engaged in bullying behaviour, that person will 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. The RCM may take a range of disciplinary action. Examples include, but are not limited to:
  - i. providing 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. mentoring and support from the Executive Team;
  - v. requiring an apology or an undertaking that certain behaviour stop;
  - vi. changing work arrangements;
  - vii. issuing a written warning (this can be a first or final warning depending on the circumstances);

- viii. dismissal.

#### **4.10 Breach of this Policy**

- a. The RCM takes very seriously its commitment to provide, so far as is reasonably practicable, a safe and healthy work environment, free from bullying. All workplace participants are required to comply with this policy.
- b. If an employee breaches this policy, they may be subject to disciplinary action. In serious cases this may include termination of employment. Agents and contractors (including temporary contractors) who are found to have breached this policy may have their contracts with the RCM terminated or not renewed.
- c. If a person makes a false complaint, or a 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.

#### **4.11 Types of potential bullying or harassment interactions**

- a. The RCM identifies a range of interactions where bullying and harassment can occur. They include, but are not limited to:
  - i. Student to Student
  - ii. Student to Staff
  - iii. Staff to Student/Parent
  - iv. Staff to Staff
  - v. Parent to Student
  - vi. Parent to Staff
  - vii. Cyber Bullying

### **5. Variations**

- a. If a workplace participant is unsure about any matter covered by this policy, or requires more information about workplace bullying they should seek the assistance of their manager, or the Executive Team member(s). They may also wish to seek external advice from the relevant regulatory authority, such as WorkCover/WorkSafe/SafeWork.
- b. *The RCM reserves the right to vary, replace or terminate this policy from time to time.*
- c. This procedure will be reviewed annually in line with the RCM's Staff Development Day WHS training program or when legislative requirements change, or in the event of a serious occurrence involving bullying.

## **Policy version and revision information**

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***Policy Written by: Graham Sattler (Mitchell Conservatorium of Music), Damien Johnson and Hamish Tait***

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