

EQUAL OPPORTUNITY, ANTI-DISCRIMINATION, ANTI-HARASSMENT AND BULLYING POLICY

The purpose of this policy is to outline the Kestrel Apprentice Solutions *Equal Opportunity – Anti Discrimination, Anti-Harassment and Bullying Policy*.

Kestrel Apprentice Solutions is committed to providing a workplace free of all forms of discrimination and harassment, including sexual harassment and bullying. It aims for equality of opportunity and treatment for all employees.

This policy is intended to ensure that there is a shared understanding amongst all Kestrel Apprentice Solutions employees, temporary staff, independent contractors, volunteers and work experience personnel of Kestrel Apprentice Solutions expectations in regards to acceptable and appropriate behaviour within the workplace.

Discrimination and Harassment is not only unacceptable, it is unlawful pursuant to State legislation (Equal Opportunity Act 2010, Racial and Religious Tolerance Act 2001) and Federal legislation (Age Discrimination Act 2004, Sex Discrimination Act 1984; Racial Discrimination Act 1975; Disability Discrimination Act 1992; Human Rights and Equal Opportunity Commission Act 1986; Fair Work Act 2009) and Occupational Health & Safety legislation. Bullying is unacceptable and may also be unlawful.

It is the primary responsibility of management to provide a working environment free from discrimination, harassment and bullying. It is the responsibility of every employee to not participate in discriminatory or harassing behaviour within the workplace. Kestrel Apprentice Solutions will take all practicable steps to ensure our Host Employers provide a similar working environment.

Kestrel Apprentice Solutions is dedicated to a proactive approach by taking reasonable steps such as educating and training employees; as well as continuing to monitor behaviour and endeavouring to prevent any disputes from occurring in the first instance, even in the absence of a formal dispute/grievance.

Management will treat all disputes confidentially, seriously and sympathetically. anyone found to have breached this policy.

No employee will be penalised or disadvantaged as a result of raising legitimate concerns or disputes relating to discrimination, harassment or bullying.

DISCRIMINATION

The *Equal Opportunity Act 2010* prohibits unlawful discrimination in the form of direct and indirect discrimination.

Direct discrimination is treating or proposing to treat a person with a protected attribute unfavourably because of that attribute (listed below). The new test is whether or not certain treatment was unfavourable to the person claiming discrimination, placing emphasis on the consequences of the treatment on the person claiming direct discrimination because of a protected attribute.

Indirect discrimination can occur when there is a requirement or condition or practice that is the same for everyone but disadvantages a person because they have one or more of the following protected attributes.

Protected attributes include:

- Age;
- Colour
- Descent or national or ethnic origin;
- Disability/impairment;
- Industrial activity/inactivity;
- Lawful sexual activity/sexual orientation or preference;
- Gender identity;

- Marital status, including de facto;
- Physical features;
- Political belief or activity;
- Pregnancy/breastfeeding;
- Race;
- Religious belief or activity;
- Sex;
- Status as a parent or carer;
- Personal association with someone of the above attributes;
- Irrelevant criminal conviction (one that does not relate to an inherent requirement of the role).

Workplace discrimination can occur in:

- recruiting and selecting staff;
- terms, conditions and benefits offered as part of employment;
- who receives training and what sort of training is offered;
- who is considered and selected for transfer, promotion, retrenchment or dismissal.

HARASSMENT

A person unlawfully harasses another person if he or she makes that other person (another employee or member of the public) feel offended, humiliated or intimidated because of one of the protected attributes listed above. It may involve inappropriate actions, behaviour, comments or physical contact that is objectionable or causes offence.

Unlawful harassment may have occurred if the behaviour makes the victim feel:

- offended and humiliated;
- intimidated or frightened and/or
- uncomfortable at work

Unlawful harassment can include behaviour such as:

- telling insulting jokes about particular racial groups;
- sending explicit or sexually suggestive emails and/or social media;
- displaying offensive or pornographic posters or screen savers;
- visiting internet or social media sites in the workplace (or place of training) containing offensive, sexually suggestive or derogative content.
- making derogatory comments or taunts about someone's race or religion;
- asking intrusive questions about someone's personal life, including their sex life.

SEXUAL HARASSMENT

Sexual harassment occurs when a person makes an unwelcome sexual advance, or an unwelcome request for sexual favours to another person, or engages in any other unwelcome conduct of a sexual nature in relation to another person, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated. It has nothing to do with mutual attraction or consenting friendships, whether sexual or otherwise.

Sexual harassment is unlawful in the workplace, which includes any place a person goes for the purpose of carrying out any function in relation to his/her employment. The workplace can also extend to social functions.

Some examples of sexual harassment include:

- Persistent, unwelcome demands or even subtle pressures for sexual favours or outings;

- Staring or leering at a person or at parts of their body;
- Unwelcome patting, pinching, touching or unnecessary familiarity, such as unnecessarily brushing up against a person;
- Offensive comments or questions about a person's physical appearance, dress or private life;
- Sexually explicit pictures or posters or screen savers (words and images);
- Visiting internet or social media sites in the workplace (or place of training) containing offensive, sexually suggestive or derogative content;
- Sexually explicit telephone calls, letters, faxes, emails or voice mail messages;
- Humour such as smutty or suggestive 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;
- Requests for sex;
- Insults or taunts based on sex;
- Sexually explicit physical contact.

Some types of sexual harassment can also be offences under the criminal law, such as:

- Physical molestation or assault;
- Indecent exposure;
- Sexual assault;
- Stalking;
- CyBer stalking;
- Obscene communications (by way of telephone calls, letters, emails, social media etc), including outside of work hours when this activity can be linked to the Host Employer or Kestrel.

BULLYING

Workplace bullying is repeated, unreasonable behaviour directed toward an employee, or group of employees, that creates a risk to health and safety.

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

"Behaviour" includes actions of individuals or a group, and may involve using a system of work as a means of victimising, humiliating, undermining, punishing or threatening.

"Risk to health and safety" includes risk to the mental or physical health of the employee.

The following types of behaviour, where repeated or occurring as part of a pattern of behaviour could be considered to be workplace bullying:

- physical or verbal abuse;
- intimidation;
- yelling, screaming or offensive language;
- excluding or isolating employees;
- psychological harassment;
- assigning meaningless tasks unrelated to the job;
- giving employees impossible jobs;
- deliberately changed work rosters to inconvenience particular employees;
- undermining work performance by deliberately withholding information vital for effective work performance.

Other types of behaviour may also constitute bullying.

Workplace bullying can occur between a worker and a manager or supervisor, or between co-workers.

Bullying is not an acceptable part of Kestrel Apprentice Solutions work culture. It is a significant occupational health and safety issue of concern if it occurs in the workplace or the working environment, as it can cause harm to a person's health and well being, both physical and psychological. Bullying may also be unlawful if it is linked to, or based on, one of the above-specified protected attributes covered by anti-discrimination legislation.

Bullying does not cover situations where an employee has a grievance about legitimate and reasonable:

- Performance management processes;
- Disciplinary action;
- Allocation of work in compliance with systems.

VICTIMISATION

It is unlawful for a person to subject or to threaten to subject another person to any detriment because the other person, or someone associated with the other person, has made an allegation or complaint of discrimination, harassment or bullying on the basis of a protected attribute.

Kestrel Apprentice Solutions may amend and vary this policy from time to time.