

## **Subject: Equal Opportunity**

Chapter: Diversity & Fair Treatment

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This policy applies to:

- all employees, full-time, part-time or casual, temporary or permanent employees; candidates; student placements, contractors, sub-contractors and volunteers;
- how Flexi provides services to clients 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 employees may be as a result of their Flexi duties and
- employees treatment of other employees, of clients, and of other members of the public encountered in the course of their Flexi duties.

### **Aims**

Flexi is committed to providing a safe, flexible and respectful environment for employees and clients free from all forms of discrimination, bullying, sexual harassment, and racial and religious vilification.

All Flexi employees are required to treat others with dignity, courtesy and respect. By effectively implementing our *Equal Opportunity Policy* we will attract and retain talented employees and create a positive work environment.

### **Employee rights and responsibilities**

All employees are entitled to:

- recruitment and selection decisions based on merit and not affected by irrelevant personal characteristics;
- work free from discrimination, bullying, sexual harassment, and racial and religious vilification;
- the right to raise issues or to make an enquiry or complaint in a reasonable and respectful manner without being victimised (see *EO Complaints and Resolution Procedure*) and
- reasonable flexibility in working arrangements, especially where needed to accommodate their family and carer responsibilities, disability, religion and culture (see *Flexible Working Practices Policy*).

All employees must:

- follow the standards of behaviour outlined in this policy;
- offer support to people who experience discrimination, sexual harassment or vilification, including providing information about how to make a complaint;
- avoid gossip and respect the confidentiality of complaint resolution procedures and
- treat everyone with dignity, courtesy and respect.

## Additional responsibilities of managers and supervisors

Managers and supervisors must also:

- model appropriate standards of behaviour;
- take steps to educate and make employees aware of their obligations under this policy and the law;
- intervene quickly and appropriately when they become aware of inappropriate behaviour;
- act fairly to resolve issues and enforce workplace behavioural standards, making sure relevant parties are heard;
- help employees resolve complaints informally;
- refer formal complaints about breaches of this policy to the appropriate complaint handling officer for investigation;
- ensure employees who raise an issue or make a complaint are not victimised;
- ensure that recruitment decisions are based on merit and that no discriminatory requests for information are made and
- seriously consider requests for flexible work arrangements.

## Unacceptable workplace conduct

The following behaviours are unacceptable in Flexi and may be against the law. Employees (including managers) found to have engaged in such conduct might be counselled, warned or disciplined. Severe or repeated breaches can lead to formal discipline up to and including dismissal.

Discrimination, bullying, sexual harassment, and racial and religious vilification are unacceptable at Flexi and are covered by federal and state legislation:

- *Equal Opportunity Act 2010 (Vic)*
- *Racial and Religious Tolerance Act 2001 (Vic)*
- *Occupational Health and Safety Act 2004 (Vic)*
- *Sex Discrimination Act 1984 (Cth)*
- *Racial Discrimination Act 1975 (Cth)*
- *Disability Discrimination Act 1992 (Cth)*
- *Age Discrimination Act 2004 (Cth)*
- *Australian Human Rights Commission Act 1986 (Cth).*

## Discrimination

Discrimination is treating, or proposing to treat, someone unfavourably because of a personal characteristic protected by the law, such as sex, age, race or disability.

Discrimination can occur:

**Directly:** when a person or group is treated unfavourably because of a personal characteristic protected by law (see list below).

*For example, a worker is harassed and humiliated because of their race or*

*A worker is refused promotion because they are 'too old'*

**Indirectly:** when an unreasonable requirement, condition or practice is imposed that has, or is likely to have, the effect of disadvantaging people with a personal characteristic protected by law (see list below).

*For example, redundancy is decided based on people who have had a worker's compensation claim rather than on merit.*

## **Protected personal characteristics in Victoria include:**

- a disability, disease or injury, including work-related injury;
- parental status or status as a carer, for example because they are responsible for caring for children or other family members;
- race, colour, descent, nationality, ancestry or ethnic background;
- age, whether young or old, or because of age in general;
- sex;
- employment activity, for example because they ask questions or raise concerns about their rights or entitlements at work;
- industrial activity, including being a member of an industrial organisation like a trade union or taking part in industrial activity, or deciding not to join a union;
- physical features, such as height, weight, size, hair or birthmarks;
- religious belief or taking part in religious activity, or not holding a religious belief;
- pregnancy and breastfeeding;
- lawful sexual activity;
- sexual orientation or gender identity, including gay, lesbian, bisexual, transsexual, transgender, queer and heterosexual;
- marital status, whether married, divorced, unmarried or in a de facto relationship;
- political belief or political activity;
- an association with someone who has, or is assumed to have, one of these characteristics, such as being the parent of a child with a disability.

It is also against the law to treat someone unfavourably because you assume they have a personal characteristic or may have it at some time in the future.

A complaint about potentially discriminatory conduct can be made using Flexi's *EO Complaints Resolution Procedure*.

## **Bullying**

If someone is being bullied because of a personal characteristic protected by equal opportunity law, it is a form of discrimination.

Bullying can take many forms, including jokes, teasing, nicknames, emails, pictures, text messages, social isolation or ignoring people, or unfair work practices.

Under the *Equal Opportunity Act 2010*, this behaviour does not have to be repeated to be discrimination – it may be a one-off event.

Behaviours that may constitute bullying include:

- sarcasm and other forms of demeaning language;
- threats, abuse or shouting;
- coercion;
- isolation;
- inappropriate blaming;
- ganging up;
- constant unconstructive criticism;

- deliberately withholding information or equipment that a person needs to do their job or access their entitlements;
- unreasonable refusal of requests for leave, training or other workplace benefits.

Bullying is unacceptable in Flexi and may also be against occupational health and safety law.

A complaint about bullying can be made using Flexi's *EO Complaints Resolution Procedure*.

## **Sexual harassment**

Sexual harassment is a specific and serious form of harassment. It is unwelcome sexual behaviour, which could be expected to make a person feel offended, humiliated or intimidated. Sexual harassment can be physical, spoken or written.

It can include:

- comments about a person's private life or the way they look;
- sexually suggestive behaviour, such as leering or staring;
- brushing up against someone, touching, fondling or hugging;
- sexually suggestive comments or jokes;
- displaying offensive screen savers, photos, calendars or objects;
- repeated requests to go out;
- requests for sex;
- sexually explicit emails, text messages or posts on social networking sites.

Just because someone does not object to inappropriate behaviour in the workplace at the time, it does not mean that they are consenting to the behaviour.

Sexual harassment is covered in the workplace when it happens at work, at work-related events, between people sharing the same workplace, or between colleagues outside of work.

All employees and volunteers have the same rights and responsibilities in relation to sexual harassment.

A single incident is enough to constitute sexual harassment – it doesn't have to be repeated.

All incidents of sexual harassment – no matter how large or small or who is involved – require employers and managers to respond quickly and appropriately.

Flexi recognises that comments and behaviour that do not offend one person can offend another. This policy requires all employees and volunteers to respect other people's limits.

A complaint of sexual harassment can be made using Flexi's *EO Complaints Resolution Procedure*.

## **Racial and religious vilification**

Vilification is behaviour that encourages others to hate, disrespect, or abuse a person or group of people because of their race or religion. This includes spoken, written, online or physical behaviour towards a particular race or religious group that encourages others to ridicule them, be hateful or violent towards them, damage their property, or make false claims against them.

It is also against the law to give permission or help someone to vilify others, for example by publishing or distributing information about them.

Some behaviour may not be vilification, if it is reasonable and done in good faith, such as publishing a media report about racist behaviour. Some comments or jokes about a person's race or religion may not be vilification, but they could still be discriminatory if they happen in one of the eight areas of public life covered by the law, such as at work.

A complaint of racial and religious vilification can be made using Flexi's *EO Complaints Resolution Procedure*.

## **Victimisation**

Victimisation is subjecting or threatening to subject someone to a detriment because they have asserted their rights under equal opportunity law, made a complaint, helped someone else make a complaint, or refused to do something because it would be discrimination, sexual harassment or victimisation. Victimisation is against the law.

*For example, a worker is refused a promotion and told that it is because their complaint of bullying last year showed that they are not a team player.*

It is also victimisation to threaten someone (such as a witness) who may be involved in investigating an equal opportunity concern or complaint.

Victimisation is a very serious breach of this policy and is likely (depending on the severity and circumstances) to result in formal discipline against the perpetrator.

Flexi has a zero tolerance approach to victimisation. Anyone who believes they have been victimised is required to immediately report the matter to their manager or the Chief Executive.

## **Gossip**

Gossip about equal opportunity problems or complaints is unacceptable in Flexi. It is not appropriate for employees to talk with other employees, clients or suppliers about any equal opportunity complaint, whether it is theirs or anyone else's.

Gossip is likely to reinforce a problem, create new problems (for example, victimisation) and make it harder to solve the original issue.

Employees with a problem, concern or complaint are encouraged to resolve it as quickly as possible according to methods outlined in the *EO Complaints Resolution Procedure*.

Breaching the confidentiality of a formal complaint investigation or inappropriately disclosing personal information obtained in a professional role (for example, as a manager) is a serious breach of this policy and may lead to formal discipline.

## **Merit at Flexi**

All recruitment and job selection decisions at Flexi 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.

It is unacceptable and may be against the law to ask job candidates questions, or to in any other way seek information, about their personal characteristics, unless this can be shown to be directly relevant to a genuine requirement of the position.

Wherever possible, at least one person on every employees selection panel should have had some formal training in equal opportunity.

## **Resolving issues at Flexi**

Flexi Personnel's adoption of an EO policy means that any characteristics (listed above) will not be a barrier to any person being employed, trained or promoted. Flexi strongly encourages any employee who believes they have been discriminated against, bullied or harassed, sexually harassed, vilified or victimised to take appropriate action (see *EO Complaints Resolution Procedure*).

Employees who do not feel safe or confident to take such action may seek assistance from the Chief Executive or the Human Resource Manager for advice and support or action their behalf.

## **Responsibility for this Policy**

Whilst management of Flexi are primarily responsible for ensuring this policy is implemented at all levels of the organisation, it is important that all persons covered by the agreement understand that they have an active role to play in its implementation.

Any person covered by this policy has a responsibility to report suspected breaches of this policy to management or other nominated equal opportunity officers.

## **Resolution**

Flexi has a positive duty to eliminate discrimination by taking proactive, reasonable and proportionate measures to eliminate discrimination, sexual harassment and victimisation.

We are committed to resolving any complaints fairly and effectively. All complaints will be treated confidentially, fairly and consistently, and resolved as speedily as possible.

Complaints shall be resolved in accordance with the Flexi Equal Opportunity Complaints Resolution Procedure and all persons covered by this policy are required to adhere to this procedure unless suitable alternative arrangements are agreed.

## **Other relevant Flexi policies**

Employees, especially managers and supervisors, are encouraged to read this policy in conjunction with other relevant Flexi policies, including:

- Fair Treatment
- Flexible Working Practices
- Occupational Health and Safety
- Equal Opportunity Complaints Resolution Procedure
- Disciplinary Procedure
- Our Values and business Objectives

**Flexi is strongly committed to the identification and elimination of discriminatory practices within the work environment.**