

## Equal Opportunity, Harassment and Bullying

### Policy Statement

Burke and Beyond is committed to ensuring a safe and healthy workplace that is free from the risk of psychological and physical injury, harassment, bullying and discrimination.

Inappropriate behaviour is unacceptable and will not be tolerated under any circumstances.

### Objective

Burke and Beyond is committed to promoting and facilitating good relations within our working and program environments which fosters team work and encourages people to give their best. Everyone employed, participating and engaged with Burke and Beyond has a responsibility to maintain good working relationships and not use words or deeds that may harm the safety and wellbeing of others. In addition to the obligations placed upon both employers and employees by the Equality and Human Rights legislation, everyone has the right to be treated with consideration, fairness, dignity and respect. This contributes to an environment in which individuals feel safe and can work effectively competently and confidently.

### Scope

This policy applies to all people within Burke and Beyond and to all those working off the premises. It extends to include non-permanent workers such as secondees, contractors, agency, temporary staff, consultants, volunteers, any other workers, participants and their circle of support.

The policy, in addition, covers the behaviour of staff, participants and families outside working hours which may impact upon work or working relationships.

This policy also covers the protection and safety for children of any participant, volunteer and/ or student placement of children under the age of 18 associated with Burke and Beyond.

### Policy Details

Inappropriate behaviours can have detrimental effects on people and their job performance. It can create an unsafe and unhealthy working environment, result in a loss of trained and talented workers, breakdown teams and individual relationships, and reduce efficiency.

People who are exposed to such behaviour can become distressed, anxious, withdrawn, depressed, and can lose self-esteem and self-confidence.

Burke and Beyond provides and sustains a safe environment in which everyone is treated fairly and with respect. Those working, participating or dealing with us must not encounter harassment, intimidation or victimisation on the basis of gender, race, colour, ethnic or national origin, sexual orientation, marital status, religion or belief, age, trade union membership, disability, offending background or any other personal characteristic.

Everyone carries a personal responsibility for their own behaviour and for ensuring that their conduct is in accordance with the principles set out in this policy. In addition, each person has a responsibility to report any instance of bullying or harassment which they witness or which they become aware of. Employees have a responsibility to act as role models, pro-actively

addressing instances of bullying and harassment. Managers should also make themselves aware of their responsibility.

### **Definition**

Inappropriate behaviour may be characterised by persistent and repeated negative behaviour directed at a person which creates a risk to health and safety. It may occur in one-to-one situations, in front of managers or supervisors, co-workers, participants or families or by written, visual, electronic communications such as letters, drawings, emails or telephone communications.

### **Types of behaviour**

- Physical or verbal assault
- Belittling opinions or constant criticism
- Yelling or screaming or offensive language
- Derogatory, demeaning or inappropriate comments or jokes about a person's appearance, lifestyle and background
- Insults
- Isolating workers from normal work interaction, training and development or career opportunities
- Overwork, unnecessary pressure and unreasonable deadlines
- An unacceptably aggressive style from a superior
- Undermining work performance by deliberately withholding work-related information, access, support or resources or supplying incorrect information
- Under-worked, creating a feeling of uselessness
- Unexplained job changes, meaningless tasks, tasks beyond a person's skills and training, and failure to give credit where credit is due
- Over-detailed supervision and unwarranted checking of performance
- Unreasonable "administrative sanctions" such as undue delay in processing applications for training, leave or expenses

Harassment and Bullying may be summarised as any behaviour that is unwanted by the person to whom it is directed. It is the impact of the behaviour rather than the intent of the perpetrator that is the determinant as to whether harassment or bullying has occurred.

### **What is not considered inappropriate behaviour**

Reasonable management actions carried out in a fair way is not inappropriate. For example:

- setting performance goals, standards and deadlines
- allocating work to a worker
- rostering and allocating working hours
- transferring a worker
- deciding not to select a worker for promotion
- informing a worker about unsatisfactory work performance
- informing a worker about inappropriate behaviour
- implementing organisational changes
- performance management processes
- constructive feedback
- downsizing
- requesting information from a worker regarding incidents, injury or return to work plans and programs.

### **Employer responsibilities**

Burke and Beyond will take the following actions to prevent and control exposure to inappropriate workplace behaviours.

- Proactively promote a workplace free from inappropriate behaviour and act on incidents.
- Provide for appropriate training and information to staff of the work area about what are acceptable and unacceptable workplace behaviours
- Inform staff of the actions they can take if they feel they exposed to intimidated including information about Burke and Beyond Contact Officers
- Arrange or provide adequate and appropriate support to staff who make a complaint, including ensuring that the matter is treated confidentially and that the complainant is not victimised
- Deal fairly with all persons involved in allegations of inappropriate workplace behaviour including ensuring due process

### **Responsibilities of employees**

Burke and Beyond requires all employees to behave responsibly by complying with this policy, to not tolerate unacceptable behaviour, to maintain privacy during investigations and to immediately report incidents of inappropriate workplace behaviour to Management. Management personnel are required to personally demonstrate appropriate behaviour, promote the inappropriate workplace behaviour policy, treat complaints seriously and ensure that where a person lodges or is witness to a complaint, this person is not victimised.

### **Contact Officers**

An employee who is exposed to inappropriate behaviour can contact either their Coordinator/Manager, General Manager Community Services (GMCS) or the CEO for information and assistance in the management and resolution of a workplace complaint.

Contact Officers are able to provide information regarding Burke and Beyonds policies and procedures and resolution and reporting options.

### **Commitment to promptly investigate complaints**

Burke and Beyond has a complaint handling system which includes procedures for reporting, investigating, resolving and appealing inappropriate workplace behaviour complaints. Any reports of inappropriate behaviour will be treated seriously and investigated promptly, fairly and impartially.

### **Process**

Any employee who wishes to make a complaint of harassment or bullying is encouraged to first discuss matters informally with their Coordinator/ Manager or GMSD provided that they feel able to do so. Should the issues not be resolved at this stage, or the employee feels unable to raise the issue informally, then a formal resolution should be sought.

If a complaint of Bullying, Harassment and/or discrimination is brought to the attention of management at any level, whether informal or formal, prompt action will be taken to pursue the matter. Corrective action must be taken where appropriate and may require an investigation as per the incident and feedback management processes.

If it is considered that one of the parties concerned in a harassment or bullying case should be relocated from their current workplace/service, then as a matter of principle, Burke and Beyond will normally remove the alleged perpetrator rather than the complainant. However, the final decision on who should be moved should reflect the particular circumstances of the case and consultation between the relevant management and CEO. It should be noted and explained to those concerned that the moving of either party is not an implication of guilt or culpability and no

detriment to either party will be construed as a consequence.

All matters relating to the investigation of complaints of harassment, bullying and discrimination will be treated in strict confidence. Any breach of confidentiality in this regard may render those responsible liable to disciplinary actions. However, it will be necessary that any alleged perpetrator is made aware of the allegations against them with the name(s) of those making the allegations together with the name(s) of any witnesses.

No employee, even if acting on behalf of another person, shall be victimised or suffer detriment for making a complaint of harassment, bullying and discrimination, no manager shall threaten either explicitly or implicitly that an employee's complaint will be used as the basis for decisions affecting that employee. Such conduct will be treated as a very serious disciplinary offence. Similarly, managers are required to act on any complaint of harassment, bullying and discrimination. Failure to do so will be regarded as misconduct which if proven, will result in disciplinary action.

All allegations of harassment or bullying, whether raised, formally or informally, must be notified by the person receiving the allegation to the GMSD who for recording in accordance with the requirements of the Equality and Human Rights legislation. This legislation requires such records to be maintained and the incidence of bullying and harassment to be monitored.

The principles for managing allegations of bullying, harassment and discrimination are as follows:

### **Informal Resolution**

Often people are not aware that their behaviour is unwelcome or misunderstood and an informal discussion can lead to greater understanding and agreement that the behaviour will cease.

Complainants are therefore encouraged to try, if they feel comfortable doing so, to resolve the problem informally by making it clear to the alleged harasser that his/her actions are unwanted and should not be repeated. This may be done verbally or in writing in which case the complainant should keep a copy of the documentation and, where possible, the times and dates of incidents.

If the complainant feels unable to approach the alleged harasser, a work colleague, or their coordinator/manager could be asked to speak to the alleged harasser on the complainant's behalf. A note should be made of the action taken and the matter notified to the GMSD and/or CEO.

An individual who is made aware that their behaviour is unacceptable should: -

- Listen carefully to the complaints and the concerns raised.
- Respect the other person's point of view: everyone has a right to an environment free from harassment/intimidation.
- Understand and acknowledge that it is the other person's reaction/perception to another's behaviour that is important.
- Agree on the aspects of behaviour that will change.
- Review their general conduct/behaviour at work and with workplace colleagues.

### **Formal Resolution**

If the alleged harassment continues, the complainant feels unable or unwilling to deal with the matter informally, or the allegation is so serious as to prevent use of the informal procedure, a complaint should then be raised formally with their Coordinator/Manager or GMSD. However, if

the employee feels unable to do this they should submit the complaint in writing to the CEO. When dealing with a complaint of harassment under the Formal Resolution Procedure, the relevant coordinator, GMSD or CEO should:

- Take full details of the incidents in writing from the complainant and their representative (if appropriate);
- Take full details from any witnesses/other complainants who come forward and may have witnessed the alleged behaviour
- Inform the alleged harasser of the complaints against him/her, advise the alleged harasser to seek representation and invite him/her to a meeting in order that they can comment on the allegations against them
- Keep all parties informed of expected timeframes
- Inform all parties in writing of the outcome and any action that may be required.

If the allegations and the situation warrant it, the alleged harasser may be suspended during the investigation (in accordance with established disciplinary processes) or temporarily transferred pending the outcome of the inquiry to another service

Should there be a case to answer against the alleged harasser, the CEO and/or GMSD, in consultation with Coordinator undertake disciplinary action. The normal disciplinary procedure for misconduct/gross misconduct should then be followed. However, the following points should be taken into account: -

- The complainant will normally be required to attend the disciplinary hearing as a witness, unless there are exceptional circumstances which prevent them from doing so;
- If the complainant is required to attend, they are entitled to be accompanied by either a representative or colleague and have any questions directed through that person.

If the complaint is upheld at the disciplinary stage, there are a number of possible outcomes for the harasser, depending on the evidence presented and the circumstances. These could include, but are not limited to:-

- dismissal if an employee or ceasing/revised services for a participant
- a formal warning
- a recommendation of redeployment/transfer of the harasser, either on a temporary or a permanent basis. This will not be on any less favourable terms and/or conditions of employment/service
- implementation of other sanctions as identified through other Burke and Beyond processes
- making arrangements for both parties to work as separately as possible within the same workplace

In addition to the above, the harasser may be required to attend any education or training courses as deemed necessary by Burke and Beyond.

It should also be noted that the complainant may wish to move service/site depending upon the nature of the complaint and the people involved. Appropriate consideration should be given to this request and the outcome with reasons provided to the complainant.

With any allegation, the need for a thorough and objective investigation is paramount.

Consequently, if through the course of the investigation evidence demonstrates that the allegation has been made frivolously, maliciously, or for personal gain, then the individual making the complaint will be subject to disciplinary proceedings.

## Appeals

Appeals against decisions taken under the Bullying and Harassment at Policy and Procedure shall be dealt with as follows: -

- Appeals against a disciplinary sanction will be dealt with in accordance with the relevant appeals processes and legislative requirements
- Appeals by a complainant about the outcome of any inquiry will be dealt with in accordance with appeals processes and legislative requirements

## Records

Where the complaint is informal and resolved at this stage, no record will be kept on personal files. Following formal investigation, where the complaint is not substantiated, no records will be retained. Where a complaint is substantiated or partially substantiated but does not proceed to disciplinary, a letter confirming the outcome will be retained on the personal file and supporting documentation retained in a separate file for a period of 12 months.

Where the matter precedes to a disciplinary process/hearing then the storage of records shall be maintained in accordance with relevant record management policies and procedures.

## **Implementation and Review**

This document will be reviewed every three years and following significant incidents if they occur. Improvements to this document can be made by completing a suggestion and improvement form, attaching any suggested amendments and forwarding it to your manager and/or the Quality Manager for review.

## **ADMINISTRATION:**

<b>Standards related to:</b>	Governance and Operational Management	
<b>Legislation or external reference documents:</b>	Commonwealth related legislation: Australian Human Rights Commission Act 1986 Cwlth Age Discrimination Act 2004 Cwlth Disability Discrimination Act 1992 Cwlth Racial Discrimination Act 1975 Cwlth Sex Discrimination Act 1984 Cwlth Fair Work Act 2009 A Guide for creating a Child Safe Organisation Victorian related legislation: Equal Opportunity Act 2010 Racial and Religious Tolerance Act 2001 Charter of Human Rights and Responsibilities Act 2006. Victorian Crimes Act 1958 Occupational Health and Safety Act 2004	
<b>Related Policies or Procedures:</b>	Feedback, Diversity policies and procedures. Allegations assault, abuse and neglect, Restrictive practices, Occupational violence and Incident management procedures. Incident / Complaint Investigation Report	
<b>Reviewing and approving this policy</b>		
<b>Frequency</b>	<b>Person responsible</b>	<b>Approval</b>
Every 3 years	Manager Quality and Risk	CEO

## **Indexing:**

**Policy review and version tracking**

<b>Review</b>	<b>Date Approved</b>	<b>Approved by</b>	<b>Next Review Due</b>
1	23/01/2019	Bruno Cyr	2022
2	14/05/2024	Lisa Sawatzky	2025

**Bullying Harassment and Discrimination Contact Officer****Overview of the role**

Contact Officers provide information to the Burke and Beyond community on policies and procedures related to the prevention, reporting and resolution of discrimination, harassment (including sexual harassment), sexual assault and bullying.

Contact Officers also

- provides appropriate referral information,
- play an active and important role in promoting respect.

**Objectives of the Contact Officer**

The primary objectives of the role are to:

- show empathy and listen to the person's concerns;
- provide information on policies and procedures related to discrimination, harassment and bullying;
- provide information on internal and external options for reporting and resolution;
- provide referral information (for example, staff and student counselling; external agencies; advocacy options);
- allow the person to choose their resolution and/or reporting option/s;
- maintain confidentiality (except where there are limits to confidentiality – see below);
- model positive behaviours and promote an inclusive work environment.

**Responsibilities of the role**

Harassment and Discrimination Contact Officers are required to:

- keep up-to-date with relevant policies, procedures and support;
- Log deidentified details of each contact and send to Manager Quality and Risk;
- model appropriate behaviour, consistent with Burke and Beyond Code of Conduct;
- contact the Manager Quality and Risk if they have any concerns or require guidance.

**Harassment and Discrimination Contact Officers will not:**

- provide advice or an opinion on what the person should do;
- act as an advocate;
- lodge a complaint with or on behalf of a staff or participants
- direct or influence staff or participants to take a particular course of action;
- provide counselling to staff
- provide legal advice; and
- break confidentiality (except in situations outlined below).

**Confidentiality requirements**

Bullying Harassment and Discrimination Contact Officers are required to maintain confidentiality unless there is:

- consent given by the person to disclose information to a third party;
- imminent danger of serious harm to self or others;
- a legal obligation or concern that the law has been broken. Contact Officers are encouraged to seek guidance on these matters and may, in the first instance, contact the Manager Quality and Risk who will seek appropriate advice on the issue.