



POLICY – PREVENTION OF HARASSMENT AND BULLYING

COLUMBIA PARK EARLY LEARNING CENTRE (CPELC)

DOCUMENT HISTORY & VERSION CONTROL

The below table is a summary record of the historic versions and authorisations of and amendments to this policy.

Version no.	Reviewed by	Authorised by	Date of issue	Amendments made
v1.0	CPELC FY21 Committee & Management	CPELC FY21 Committee	23 June 2021	This policy supersedes the previous CPELC Workplace Discrimination and Harassment Policy

AUTHORISATION

This policy was approved on Wednesday 23 June 2021 by the Columbia Park Early Learning Centre (CPELC) Committee of Management.

REVIEW DATE

This policy will be subject to regular review by the Committee in consultation with CPELC employees (and parents/guardians of students, as appropriate).

SCOPE OF THE POLICY

This policy applies to all persons, paid or voluntary, who attend CPELC. All persons, paid and voluntary are to act in accordance with the principles set down in this policy. The employer can be held responsible for the behaviour of all employees. This policy provides a clear guidelines for responsibilities and obligations of all staff, committee members, parents, family members and visitors to CPELC.

BACKGROUND AND RELEVANT LEGISLATION

- *Equal Opportunity Act 2010 (Vic)*
- *Racial and Religious Tolerance Act 2001 (Vic)*
- *Sex Discrimination Act 1984 (Cth)*
- *Racial Discrimination Act 1975 (Cth)*
- *Disability Discrimination Act 1992 (Cwth)*
- *Human Rights and Equal Opportunity Commission Act 1986 (Cth)*
- *Fair Work Act 2009(Cth)*
- *Occupational Health and Safety Act 2004 (Vic)*



DEFINITIONS

Sexual harassment: Under the *Sex Discrimination Act 1984* and the *Equal Opportunity Act 2010*, sexual harassment refers to unwanted, unwelcome behaviour of a sexual nature that is offensive, embarrassing, intimidating or humiliating. Sexual harassment can involve physical contact or suggestive behaviour or comments, propositioning and unnecessary and/or unwelcome familiarity.

Harassment: Includes, but is not limited to, unwanted, unwelcome behaviour that is offensive, embarrassing, intimidating or humiliating.

Bullying: Includes systematic/repetitive physical and/or psychological abuse.

Workplace bullying: Is repeated, unreasonable behaviour directed towards an employee, or group of employees, that creates a risk to health or safety.

Unreasonable behaviour: Means behaviour that a reasonable person, having regard to all of the circumstances, would expect to victimise, humiliate, undermine or threaten. This includes gossip.

For the purpose of this policy, harassment will include sexual and other forms of harassment, including bullying.

POLICY STATEMENT

CPELC is committed to providing a safe, flexible and respectful environment for staff and clients free from all forms of discrimination, bullying and harassment.

The committee acknowledges and supports the right of all employees, committee members, parents and other visitors to the service to experience an environment free of sexual and other forms of harassment, including bullying. Sexual and other forms of harassment, including bullying, are unlawful and are not acceptable in any form by the employer. It is acknowledged that distress caused by harassment or bullying can be the same whether the conduct is intentional or unintentional.

This policy will be displayed prominently in the workplace, form part of information given to all employees (including students on placement) and committee members and made available to all parents of kindergarten students attending the service.

HARASSMENT COMPLAINTS PROCEDURE

Confidentiality is a cornerstone of this procedure. Any employee, committee member, parent or student on placement who uses the harassment reporting procedure will have the matter treated in the strictest confidence. Particular attention will be paid to the sensitive nature of a sexual harassment complaint and confidentiality will be maintained.

To avoid any perceived conflict of interest, if the president, vice-president or other committee members are personally involved in issues as a complainant, or in allegations of discrimination, they will stand aside from participation in subcommittees or procedures related to the investigation or management of complaints.

The service will ensure that all complaints/grievances in relation to harassment, regardless of whether they are of a major or minor nature, will be treated seriously and an investigation carried out fairly, efficiently and expeditiously.

All parties to a grievance have the right to:

- have grievances conducted in a fair, objective and unbiased manner
- be treated with respect
- be kept informed about the progress of the grievance



- only have relevant factors taken into account in addressing the matter
- not be subjected to any form of retribution, either stated or implied
- have a support person present at all stages of the process, but not a legal representative. A support person may be a work colleague or union representative who may offer support but not act as an advocate
- be informed, orally and in writing, of the outcome of the grievance, including reasons.

All parties to the grievance are expected to:

- respect and consider alternative views and opinions
- fully participate in the grievance process.

HARASSMENT REPORTING PROCEDURE

Step 1: Opportunity for resolution

If an employee is offended or believes he/she is the subject of harassment, the best response is to take firm and positive action. The aggrieved person is encouraged to make the person or persons aware that their actions are unwelcome/offensive/intimidating.

If the behaviour continues or, if the aggrieved person feels he/she is unable to confront the person directly, the employer (once advised) should go to the Centre's Management (Centre's Manager, 2IC, or Lead educator) or Any of Committee Members to:

- advise that the nature of the behaviour may constitute harassment
- explore possible strategies for resolving the difficulty without recourse to a formal complaint.

Step 2: Informing the Committee

If the problem is first reported to Centre's Management or the direct Supervisor, It should be reported to the of the president or, in their absence, the vice-president or, in their absence, the committee.

Step 3: Lodgement of complaint

If the problem is not, or cannot be, rectified by approaching the perpetrator of the alleged inappropriate behaviour, the following steps should be taken:

- The aggrieved person should place a complaint in writing to the employer, marked for the attention of the president or, in their absence, the vice-president or, in their absence, the committee. The complaint should set out the nature and details of the matter, as well as any suggestions they have to resolve the complaint.
- Once the complaint has been made, care will be taken not to discriminate against or victimise the complainant or the alleged harasser.
- The president/vice-president should advise committee members of the receipt of the complaint at the earliest opportunity but no later than the next committee meeting.

Step 4: Consultation about complaint

The committee should establish a staffing subcommittee (ideally three people, one of whom should be an executive member of the committee) to be elected at the first meeting of the year of the committee. This subcommittee should be given the authority to deal with any formal complaint lodged and to consult with the complainant and respondent and investigate and resolve the complaint as appropriate. It may be necessary to make a recommendation to the committee in order to resolve the matter. If a staffing subcommittee is not in existence, authority is delegated to the president or, in his/her absence, the vice-president or, in his/her absence, the committee to appoint a minimum of three committee members (one of whom should be an executive member of the committee) to investigate the complaint.

Attempts will be made in all cases to resolve the complaint to the mutual satisfaction of those involved.



This should occur as soon as is reasonably practicable.

If the complaint is resolved as a result of formal consultation, the subcommittee (to the extent confidentiality allows) will report to the committee on the outcome of the process.

Attempts will be made to resolve the complaint in consultation with and to the mutual satisfaction of those involved. Depending on the nature and severity of the matter the following action may be undertaken.

The subcommittee will meet with the alleged harasser to formally notify him/her of the written complaint. This person must be advised of the following:

- The right to have a support person present at all stages of the process, but not a legal representative. A support person may be a work colleague, union representative or friend who can offer support only as he/she is not there to act as an advocate.
- Not to contact the complainant.
- No action will be taken until he/she has had an opportunity to be heard.
- If, after discussions with the alleged harasser, it appears that a simple modification of behaviour on the part of the alleged harasser will, to the satisfaction of the complainant, resolve the complaint, the subcommittee should agree with the complainant that no further action should be taken. If after a period of three months there are no further complaints, the matter will be closed.
- The subcommittee will report back on their actions and findings (within the agreed confidentiality parameters) to the committee on completing their consultation processes.

Step 5: Complaint investigation phase

If it is not possible to resolve the complaint through discussions with relevant parties within an expeditious time, the subcommittee will conduct a formal investigation into the complaint. This investigation should be completed within five working days of the conclusion of the consultation phase.

All documents related to the complaint will be kept confidential and shall not be produced or made available for inspection, except on instruction from a relevant authority consistent with the service's privacy policy. The subcommittee will report (within the confidential terms of the investigation) back to the committee on completing the investigation.

All documents related to the complaint will be kept confidential and shall not be produced or made available for inspection, except on instruction from a relevant authority in line with the service's privacy policy.

The committee will be kept informed of the progress of the investigation.

During the period of investigation of serious sexual or other harassment, wherever possible the complainant and alleged harasser should not be required to work with each other in the same physical area, if requested by either party. Wherever possible, alternative working arrangements should be made if requested by either party. If this is not possible, the committee will arrange for a third person to be present whose role will be to monitor all contact.

Within the constraints of confidentiality provisions of the investigation the subcommittee will report back to the committee on completing the investigation.

Step 6: Resolution of complaint following investigation

If, following investigation and resolution, a complaint is found to have foundation, the committee will determine an appropriate action plan that addresses the matters of concern and will take steps to immediately prevent a recurrence of the behaviour. Both parties will be told of the outcome of the investigation, recommendations (if any) and reasons. If the harasser is an employee, the complaint and resolution are to be noted on relevant personnel files.

Where the incident involved an employee and disciplinary action taken was effective, or the action taken with a non-employee was effective, a check should be made at regular intervals to ensure that the



behaviour has stopped and that the solution is working satisfactorily.

Redress or compensation for the complainant may include a private or public written or verbal apology from the harasser.

If, following investigation, the complaint is found to have no foundation, the complainant may be offered counselling. If it is considered that the complaint was made maliciously, action may be taken against the complainant.

APPLICATION TO AN EXTERNAL ORGANISATION

As sexual and disability harassment are breaches of Victorian and Commonwealth legislation, the aggrieved party is entitled to take their complaint at any time to a court of competent jurisdiction (for example The Equal Opportunity Commission (02) 9281 7111 or 1800 134 142) or The Human Rights and Equal Opportunity Commission, (02) 9284 9600 or 1300 656 419).

KEY RESPONSIBILITIES

The committee is responsible for:

- implementing this policy
- ensuring confidentiality is maintained
- authorising change to this policy.

The staffing subcommittee or, in its absence the committee, is responsible for:

- responding to and investigating any complaints to the service that are covered by this policy
- seeking assistance and advice from relevant organisations or persons in dealing with the complaint.

Staff are responsible for:

- complying with this policy.

RESOURCES AND SUPPORT

- *Prevention of Bullying and Violence at Work*, which is available from WorkSafe offices or their website on www.worksafe.vic.gov.au/:
 - <https://www.worksafe.vic.gov.au/sexual-harassment>
 - <https://www.worksafe.vic.gov.au/work-related-gendered-violence-including-sexual-harassment>
 - <https://www.worksafe.vic.gov.au/work-related-sexual-harassment-know-your-responsibilities>
- Victorian Equal Opportunity and Human Rights Commission:
<https://www.humanrights.vic.gov.au/hub/workplace-rights/>

EVALUATION

To assess whether this policy has achieved the purposes set out in this policy the committee will:

- monitor complaints received in relation to harassment
- take into consideration feedback on this policy from employees, students on placement, volunteers, parents and committee members.



DEALING WITH THE MEDIA

In the event that an incident requires communication with media outlets, only CPELC representatives approved by the committee may communicate with external media representatives. Further to this, all dealings with the media with regard to all Reports, Grievances or Complaints related to this policy can be taken up by the following organisations with the approval of the committee:

- Department of Education and Training: 1300 651 940
- City of Monash – contact Jennifer Sebire: 9518 3265
- Centre's Insurers – contact VMIA: 9270 6900 (8.30 – 5.30 Mon to Fri); after hours: 9270 6888 and follow directions

RELATED CPELC POLICIES

Other CPELC policies related to this policy include:

- Behaviour Guidance Policy
- Child Safe Environment Policy
- Code of Conduct Policy – Adults
- Code of Conduct Policy – Staff
- Grievances and Complaints Management Policy and Procedures
- Occupational Health and Safety Policy
- Participation of Volunteers & Students Policy
- Staff Health and Wellbeing Policy (Mental Health Policy)

END OF POLICY

APPENDIX

Refer to the appendix on subsequent pages that provides additional information related to this policy.



APPENDIX

EXPANSION ON THE POLICY STATEMENT

The Columbia Park ELC Committee acknowledges and supports the right of all employees, committee members, parents and visitors to the service to experience an environment free of sexual harassment and work-related gendered violence. Sexual harassment and work-related gendered violence are unlawful and are not acceptable in any form by the Committee of Columbia Park Early Learning Centre. The effect of sexual harassment and work-related gendered violence on the people involved can range from annoyance to deep distress, feelings of isolation, loss of confidence, anxiety, depression and can lead to an intimidating, hostile and offensive work environment. This can contribute to reduced quality of work, low productivity and morale, distraction from work, absenteeism, poor health and high staff turnover.

Distress caused by sexual harassment and work-related gendered violence can be the same whether the conduct is intentional or unintentional.

All staff employed by Columbia Park Early Learning Centre are required to treat others with dignity, courtesy and respect. By effectively implementing our Sexual Harassment and Work-Related Gendered Violence Policy in conjunction with all service policies, procedures and protocol the Committee strive to attract and retain talented staff and create a positive environment for staff.

This policy will be displayed prominently in the workplace, form part of information given to all employees (including students on placement) and committee members and made available to all parents and families of children attending the ELC.

It is not the intention of this Policy to interfere in personal lives and relationships between consenting employees, which is not a form of sexual harassment.

FURTHER INFORMATION ON LEGISLATION AND STANDARDS

Relevant legislation and standards include:

- Australian Fair Work Act 2009
- Australian Human Rights Commission Act 1986
- Australian Sex Discrimination Act 1984
- Equal Opportunity Act 2010 VIC
- Occupational Health and Safety Act 2004 VIC
- Occupational Health and Safety Regulations 2007
- WorkSafe Victoria Compliance Code: Communicating Occupational Health and Safety Across Languages
- National Quality Standard
Quality Area 4: Staffing Arrangements

Standard 4.2: Educators, co-ordinators and staff members are respectful and ethical

Element 4.2.1: Professional standards guide practice, interactions and relationships

Element 4.2.2: Educators, co-ordinators and staff members work collaboratively and affirm, challenge, support and learn from each other to further develop their skills and to improve practice and relationships

Element 4.2.3: Interactions convey mutual respect, equity and recognition of each other's strengths and skills

Quality Area 7: Leadership and Service Management

Standard 7.1: Effective leadership promotes a positive organisational culture and builds a professional learning community



Element 7.1.2: The induction of educators, co-ordinators and staff members, including relief educators is comprehensive

Element 7.3.2: Administrative systems are established and maintained to ensure effective operation of the service

Standard 7.3: Administrative systems enable the effective management of a quality service

Element 7.3.4: Processes are in place to ensure that all grievances and complaints are addressed, investigated fairly and documented in a timely manner

Element 7.3.5: Service practices are based on effectively documented policies and procedures that are available at the service and reviewed regularly

WorkSafe Victoria Details

Occupational Health and Safety Act Duties

Employers

- Employers must eliminate risks to health and safety so far as is reasonably practicable. If it is not reasonably practicable to eliminate the risks they must be reduced so far as is reasonably practicable.
- Employers must provide and maintain safe systems of work, and give employees the necessary information, instruction, training or supervision to do their job safely and without risks to health.
- Employers must consult with health and safety representatives (HSRs) and their employees about health and safety issues that may directly affect them. Consultation about sexual harassment and gendered violence must occur when:
 - identifying or assessing hazards or risks in the workplace,
 - making decisions about measures to be taken to prevent and manage gendered violence risks,
 - making decisions about procedures to resolve health or safety issues,
 - making decisions about procedures to monitor employee health,
 - making decisions about information and training on work-related gendered violence,
 - proposing changes that may affect the health and safety of employees.
- Employers must also ensure that, so far as is reasonably practicable, people other than employees are not exposed to risks to their health or safety arising from the business.

Employees

- Employees must take reasonable care of their own health and safety in the workplace, and the health and safety of others who may be affected by what they do or don't do. Employees must also cooperate with their employer on any action taken to comply with the OHS Act.

Equal Opportunity Act Duties

- Work-related gendered violence may constitute sexual harassment, unlawful discrimination or victimisation (treating someone adversely because they have made, or may make, a complaint) under the EO Act.
- Under the EO Act, employers have a duty not to engage in discrimination or sexual harassment, and to take reasonable steps to eliminate these behaviours.
- An individual who discriminates against or sexually harasses another person in the workplace can be held responsible, and therefore legally liable, for their behaviour.
- Employers can also be held legally responsible for acts of discrimination or sexual harassment by their employees or agents if they occur:
 - in the workplace, or
 - in connection with a person's employment.
- This is known as vicarious liability.

WHAT IS WORK-RELATED GENDERED VIOLENCE?

Work-related gendered violence is any behaviour, directed at any person, or that affects a person, because of their sex, gender or sexual orientation, or because they do not adhere to socially prescribed gender roles, that creates a risk to health and safety.



This includes violence targeted directly at someone specifically because, for example:

- they are a woman
- they identify as LGBTIQA (Lesbian, gay, bisexual, transgender, intersex, queer or asexual)
- they don't follow socially prescribed gender roles and stereotypes (Society's traditional ideas about how men and women should look or act, what characteristics they should have, or their roles in the workplace, home or public life).

Work-related gendered violence can also be experienced indirectly. A person may experience gendered violence not targeted specifically at them (such as overhearing a conversation that affects them) or witness violence directed at someone else. Sexual harassment is a common form of gendered violence.

Types of work-related gendered violence can range in severity from comments and gestures, through to sexual assault and rape. It can include:

- stalking, intimidation or threats
- verbal abuse
- ostracism or exclusion
- sexually explicit gestures
- offensive language and imagery
- put downs, innuendo, and insinuations
- being undermined in your role or position
- sexual harassment
- sexual assault or rape.