



## Preamble / Context

MACE Incorporated (MACE) is committed to recognising and acknowledging dignity to all employees, volunteers, contractors, learners, and participants of MACE in the Mansfield and wider community. This policy seeks to develop a supportive workplace with policies and procedures that provide a clear statement of MACE expectations of its employees, volunteers, contractors, learners, and participants of MACE in the Mansfield and wider community, in respect of conduct that may constitute workplace bullying and harassment and/or breach of MACE related policies, including but not limited to the MACE *Code of Conduct* for all employees.

## Policy Statement

MACE is committed to providing a workplace that is free from bullying and harassment. All individuals have a right to work in an environment that is safe, free from bullying and harassment, and to be treated with dignity and respect.

- All MACE employees, volunteers and contractors are responsible for actively intervening to prevent and stop any bullying and/or harassing behaviour that is occurring in their workplaces, whether or not a complaint is received (refer *Code of Conduct Policy*)
- MACE provides procedures by which all individuals can have any complaint of workplace bullying and harassment addressed
- All individuals have a right to use the procedures in this policy if they believe they have experienced bullying and/or harassment outlined under *Definitions* section in this policy

Examples of behaviours that may amount to bullying and harassment include:

- Intimidation
- Verbal abuse or threats, including yelling, screaming or offensive language
- Excluding or isolating people from workplace activities
- Assigning impossible tasks, meaningless tasks unrelated to the job, or giving someone the majority of unpleasant tasks
- Undermining responsibility
- Deliberately changing work rosters to inconvenience particular employees
- Withholding information essential to do a task properly
- Copying emails that are critical about someone to others who do not need to know

- Making threats or comments about job security without foundation
- Spreading malicious rumours
- Cyber bullying
- Physical abuse

## Scope

This policy applies to all employees, volunteers, contractors, learners, and participants of MACE in the Mansfield and wider community, who are subject to alleged bullying and harassment behaviour or any other behaviour that may constitute a breach of this policy. Nothing in this policy limits the rights of an individual to make a protected disclosure in accordance with the *Protected Disclosures Policy*.

The principles set out in this policy are intended to apply to any work-related context, including conferences, work functions, social events, and business trips.

## Purpose

MACE acknowledges that bullying and harassment in the workplace falls under the Occupational Health & Safety Act 2004 and the Fair Work Act 2009.

The primary purpose of this policy is to identify bullying and/or harassing behaviour and to take action to prevent its occurrence in the workplace, and to guide MACE's approach and handling as to concerns or complaints about workplace bullying and/or harassment.

This policy must not be used for the sole purpose of seeking a desired change in work arrangements (such as transfer, alternative duties, and/or reporting lines) or to receive compensation or any other pecuniary outcome.

This workplace Bullying and Harassment Policy and Procedure is a complete code for MACE to manage and resolve workplace bullying complaints. This policy in no way limits an individual's rights, including their access to a State based WorkCover Authority and/or the Fair Work Commission or any other jurisdiction (court or tribunal).

## Confidentiality and Victimisation

The parties to a bullying complaint are required at all stages of this policy and procedure, to maintain confidentiality in relation to the concern or complaint. The parties must not disclose, by any form of communication, either the fact or the substance of the allegations or issues to anyone other than an advocate, employee representative or MACE approved officer.

- A person must not victimise or otherwise subject another person to detrimental action as a consequence of that person raising, providing information about, or otherwise being involved in the resolution of a complaint under these procedures.

- Any breach of either the confidentiality or non-victimisation requirements will be treated seriously by MACE and may result in disciplinary action. Any such breach will be referred for investigation and handling in accordance with the relevant misconduct procedure.

## Vexatious claims and claims made without reasonable cause:

Individuals should not raise allegations which are vexatious or without reasonable cause.

Where a claim is determined as vexatious or made without reasonable cause, the individual who raised the complaint will receive written notification of the determination which will include reasons as to why the complaint was deemed as vexatious and/or without reasonable cause.

## Harassment and Unlawful Discrimination

MACE is a learning environment and workplace free from harassment and unlawful discrimination.

### All individuals must:

- respect the person and privacy of employees, volunteers, contractors, learners, participants, and members of the public
- not engage in offensive behaviour, actions and/or comments
- practice tolerance in all regards and in particular, in relation to the beliefs and cultural values of participants, employees and members of the public.

MACE wishes to provide an environment which is free from unlawful discrimination, including harassment. Therefore, all individuals must refrain from any form of unlawful discrimination or harassment based on existing legislative requirements relating to:

- race, colour, ethnicity, or Aboriginal and Torres Strait Islander background
- gender or sexuality
- pregnancy or likelihood of pregnancy
- marital status
- status as parent or carer, or family and parental responsibilities (including breastfeeding)
- age
- physical features
- disability or impairment (including, for example, physical disability, mental illness, or medical status)
- HIV status
- political affiliation
- membership or non-membership of an association or organisation of employers or employees and associated activities
- membership of a profession, trade, occupation or calling
- religion
- association with, or relation to, a person identified on the basis of any of the above attributes

Each of these grounds or attributes is covered by legislation in the State of Victoria.

At all times, individuals are required to comply with all applicable anti-discrimination legislation and MACE policies and guidelines on these matters.

## Outcome

MACE, through its investigation of the complaint and findings of fact under *Procedure* section of this policy, seeks to prevent the individual from being further bullied and enable normal working relationships to resume.

If a bullying complaint is investigated and findings are made that substantiate any or all the allegations made, the CEO may refer the matter to the relevant supervisor for them to take appropriate action to prevent any behaviours that are identified as bullying. This may include, but not be limited to:

- Requiring the individual or group of individuals to stop the specified behaviour(s)
- Regular monitoring of behaviours by MACE
- Requiring compliance with this policy and any other relevant MACE policy
- Provision of information, additional support and training of relevant individuals.

Notwithstanding the above, the primary purpose of this policy is to identify bullying behaviour and to take action to prevent its occurrence in the workplace.

## Procedure

Individuals should normally raise a claim of bullying and/or harassment with their direct manager or nominated supervisor and attempt to resolve such claims locally and informally.

Where the attempt to informally resolve the matter fails or is not appropriate, the individual must report their attempt to resolve their issue in writing to the CEO. The CEO will then contact them in relation to their grievance.

In the case of all bullying and harassment complaints, MACE will review the allegations and respond to the individual who raised the complaint.

The procedural requirements of various bullying and harassment resolutions may vary from case to case. MACE aims to ensure that:

- bullying and harassment complaints are addressed sensitively, promptly and in accordance with relevant MACE policy and the principles of natural justice
- all reasonable steps are taken to respect the confidentiality of the individuals involved in a complaint

- fairness and impartiality prevail throughout the appropriate resolution process – until a bullying and/or harassment complaint is investigated, and a decision is made, a grievance is an allegation, not a fact
- complainants have the right to determine how the allegation be treated, have support, have representation throughout the process, and/or have the option to discontinue the complaint at stage of the process
- the alleged bully or harasser be given the right to have a support person of their own during the investigating procedure
- appropriate records are maintained throughout the resolution process
- individuals who notify a bullying and/or harassment complaint are protected from victimization or reprisal
- individuals who notify a bullying and/or harassment complaint are regularly informed of the progress of the matter and of the consequences of any finding i.e., whether or not the grievance is substantiated
- individuals who notify a bullying complaint are also entitled to make a protected disclosure in accordance with the *Protected Disclosures Policy*, provided that the disclosure is of the type that is identified as ‘Reportable Conduct’ under *the Protected Disclosures Policy*.

Resolution of bullying and harassment complaints should be initiated at local level. That is, before entering the formal process, the grievant should attempt to resolve the bullying and/or harassment complaint with his or her direct manager, or next most senior MACE officer.

In the event that the matter is referred for investigation, the investigator will:

- Conduct the investigation with due regard to procedural fairness, timeliness, and the individual’s safety and well-being
- Notify the parties of the investigation
- Seek sufficient particulars of the alleged conduct to enable the complaint/concern to be factually investigated
- Provide the respondent with a summary of allegations and/or a statement of the alleged conduct
- Provide the respondent with an opportunity to respond to the complaint and/or alleged conduct
- Interview the parties and, where necessary, any witnesses
- Review any relevant documentation
- Prepare a report setting out the complaint, how the investigation was conducted, relevant facts, and findings, and present this to the CEO or Board of Management member.

The CEO or Board of Management member will then make a decision based on the investigation report as to whether the alleged conduct is proven, proven in part, or not proven. The decision, along with a summary of reasons for making the decision and a clear statement of what actions will follow, will be provided to the complainant, and the respondent/s.

If the complaint is dealt with formally, MACE will aim to ensure:

- Before a complaint is investigated, the grievant relevantly describes their allegations (in most instances, but not all, this will need to be in writing), including particulars of the allegations so that they can be investigated appropriately
- The person/s against whom the allegations are made is provided with a copy of the allegations and given opportunity to respond
- All parties are informed in writing of the outcomes of any investigative process.

## Authorisation

Chief Executive Officer

MACE Incorporated

## Responsibility

The Chief Executive Officer (CEO) is responsible for ensuring that proper procedures are adhered to in development and consultation for this policy.

## Definitions

As identified in the chart below.

Item	Definition
What is Bullying?	Bullying is defined as repeated and unreasonable behaviour directed towards a person, or a group of people, that creates a risk to health, safety, and well-being. Bullying hampers productivity by creating dysfunction and damaging morale within work environments. It includes behaviour (generally a pattern of behaviour) that intimidates, offends, degrades, or humiliates another person, including by electronic means such as email, notice boards, blogs, and social networking websites.
What is <u>not</u> Bullying?	Reasonable management practices, including performance management and disciplinary procedures: <ul style="list-style-type: none"> <li>• a direction to carry out reasonable duties and instructions; and</li> <li>• a direction to comply with MACE rules, resolutions, and policies.</li> </ul>
Without reasonable cause	A claim is made without there being any real reason, basis in fact(s), or purpose. Such claims include allegations that are: <ul style="list-style-type: none"> <li>• so obviously untenable that the claim cannot possibly succeed</li> <li>• manifestly groundless; and/or</li> <li>• insufficiently particularised.</li> </ul>

Vexatious	Causing or tending to cause or provoke annoyance, frustration, or worry and/or there is another purpose for the grievance other than the settlement of the issues arising in the claim (or response).
Pecuniary	Relating to or consisting of money.
Fair Work Act 2009 (C'wth)	This is an all-encompassing law that makes bullying conduct unlawful with a right to redress workplace bullying through the Fair Work Commission under the Fair Work Act 2009 (C'wth).
OHS Act 2004	<p>While the duty of care of employers under the Occupational Health &amp; Safety Act 2004 is more or less the same as what it was under the 1985 Act, the definition of health was amended. The definition of 'health' is now as follows: "health" includes psychological health.</p> <p>This means that the employer must address workplace hazards such as bullying, stress and fatigue. So, while there are no regulations, WorkSafe Victoria has guidance on bullying, which is an acknowledged, and serious, hazard in workplaces.</p>
Harassment	Means behaviour that is not wanted and not asked for, and that a reasonable person would have anticipated would cause humiliation, offence, or intimidation.
Disciplinary Action	In employment law, disciplinary action is a process for dealing with job-related behaviour that does not meet expected and communicated performance standards. The primary purpose for discipline is to assist the employee to understand that a performance problem or opportunity for improvement exists.
Officer	People who can make decisions, or participate in making decisions that affect the whole, or a substantial part, of a business or undertaking. It is a requirement of Health and Safety legislation that any officer of an organisation must exercise due diligence to ensure that the organisation complies with its health and safety duties. This means they must ensure that the organisation has appropriate systems of work in place, and they must actively monitor and evaluate health and safety management within the organisation.

## Related Documents

- Protected Disclosures Policy PP083
- Code of Conduct Policy PP082
- Occupational Health and Safety Policy PP058
- Complaints and Appeals Policy PP029
- Complaints and Appeals Form MA010
- Legislation Policy PP063
- Privacy Policy PP026
- Suspension, Expulsion and Withdrawal Policy PP067

### Legislation and Standards

- Fair Work Act 2009 (C'wth)
- OHS Act 2004

## Process

Policy and procedures identified must be adhered to using these guidelines:

### 1. Step One – Establish

- 1.1 Create a safe work environment free from bullying and harassment.
- 1.2 Receive complaint or concern.

### 2. Step Two – Conduct

- 2.1 Identify parties involved.
- 2.2 Implement strategies to respond according to policy and procedures.

### 3. Step Three – Implement

- 3.1 Procedural principles are to be applied.
- 3.2 Process alleged harassment and unlawful discrimination claims.

### 4. Step Four – Resolution

- 4.1 Complete investigation.
- 4.2 Resolve outcomes.

### 5. Step Five – Review

- 5.1 Implement revised preventative measures if required to ensure a safe workplace.
- 5.2 Schedule review of situation, and processes.