

POLICY STATEMENT

The Olivia Newton-John Cancer Research Institute (ONJCRI) is committed to providing a workplace which is free from bullying, harassment and unlawful discrimination. The ONJCRI aims to ensure all those participating in the workplace are treated with respect, dignity and fairness with an aim of creating an environment which promotes positive working relationships.

This policy is designed to ensure that all employees, students, contractors and visitors understand what will be regarded as bullying and sexual harassment, and should be read in conjunction with the Complaints Procedure.

This policy applies to all full time, part time and casual employees, students, contractors (temporary or otherwise) and visitors to the ONJCRI.

This policy is not limited to the workplace or working hours, and will include all work related events which includes, but is not limited to; lunches, workplace functions, meetings and conferences as well as Christmas parties.

This policy also relates to, but is not limited by the following types of communication:

- Verbal communication either over the telephone or in person in the workplace, and outside of it;
- Written communication including; letters, notes, minutes of meetings etc.;
- Internal and external electronic communication including:
 - Email;
 - Instant messaging services;
 - Internal intranet;
 - Faxes;
 - Social media and networking forums including; Facebook, LinkedIn, Twitter and other forms of social media; and
 - Communications via text message.

BULLYING AND HARASSMENT

Overview

In accordance with its obligations under the Occupational Health and Safety Act (Vic) 2004, (OHS Act), the ONJCRI is committed to providing all employees, students, contractors and visitors with an environment that is safe and free from risks to health, including those risks associated with bullying.

Employees, students, contractors and visitors are expected to report and act to prevent any bullying behaviour they witness in the workplace.

Employees, students, contractors and visitors are required to treat each other with respect for their rights, duties and aspirations. Bullying is not an acceptable part of the ONJCRI's culture or values.

Managers/Lab Heads should be mindful of any inappropriate behaviour in the workplace that might be considered bullying and take action against such behaviour accordingly. The objectives of this aspect of this Policy are to:

- Prevent bullying and harassment;
- Provide a healthy and safe environment for all;
- Manage all reported incidents of bullying through the Complaints Procedure; and
- Make everyone aware of the assistance available to them in situations of bullying.

This policy is not intended to diminish supervisory or managerial prerogative to direct or control how work is done in the workplace other than to ensure, so far as is practicable, the health and safety of staff.

The ONJCRI takes complaints of bullying and harassment seriously. Such complaints will be dealt with in accordance with the Complaints Procedure.

Bullying and harassment may be regarded as misconduct or serious misconduct and may result in disciplinary action being taken, up to and including dismissal.

Policy

Employees, students, contractors and visitors must not engage in behaviours that constitute bullying towards other employees, students, contractors and visitors.

Bullying and harassment is repeated, unreasonable behaviour directed toward a staff member or members by staff member/s which creates a risk to health and safety.

Bullying and harassing behaviour may be obvious and direct or extremely subtle and indirect. Such behaviour includes physical, visual, verbal and non-verbal behaviour. Examples of behaviour that could constitute bullying include:

- physical or verbal abuse by a staff member;
- yelling, screaming or offensive language by a staff member;
- excluding or isolating a staff member;
- deliberately withholding information that is vital for effective performance;
- spreading rumours or innuendo about someone;
- psychological harassment;
- unjustified criticism or complaints;
- intimidation of a staff member;

- assigning staff members meaningless tasks unrelated to their job;
- giving staff members impossible jobs;
- interfering with someone's personal property or equipment;
- deliberately changing work arrangements, such as rosters and leave, to inconvenience particular staff members.

Behaviour is considered 'repeated' if an established pattern can be identified. The requirement for the behaviour to be 'repeated' refers to the persistent nature of the behaviour and may involve a series of diverse incidents.

Bullying and harassment can include actions of individuals or a group, and may involve using a system of work or assessment as a means of victimising, humiliating, undermining or threatening an individual or group.

The risk to health or safety created by bullying and harassment includes any risks to the psychological or physical health of the staff member.

Bullying and harassment can occur unintentionally. A person's intention or motive is not relevant when determining whether the alleged behaviour constitutes bullying and/or harassment.

What is not bullying and/or harassment:

- **Reasonable management action** - It is important to differentiate between bullying and harassment and an employer's legitimate authority to direct and control the way work is done. It is reasonable for employers to allocate work, and for managers/Lab Heads to give fair and reasonable feedback on an employee's performance. This can include setting performance goals and deadlines, allocating work, rostering work hours, deciding not to select a worker for a promotion or informing an employee about unsatisfactory work performance or inappropriate behaviour.
- **Conflict at work** - People are bound to have occasional differences of opinion and these are a normal part of working life. Disagreements can leave people feeling upset but they should not be confused with bullying and/or harassing behaviour.
- **Single incidents** - If a person is subject to a single incident of unreasonable behaviour, it's unlikely to be bullying and/or harassment. However, the incident shouldn't be ignored as it may have the potential to escalate into bullying and/or harassment. Addressing the behaviour before it is repeated is the best way to manage the situation. An employee with a concern about a single incident of bullying-style behaviour may raise this issue with the alleged perpetrator, their manager/Lab Head, a Health and Safety Representative or Human Resources.
- **Other situations** - Just as there are a broad range of behaviours that can be bullying and/or harassment, there are many that won't be. For example, being abrupt with someone because you're busy, not inviting someone to a non-work related social event and personal disputes outside of work.

SEXUAL HARASSMENT

Overview

Employees, students, contractors and visitors at the ONJCRI have a right to work in an environment that is free from sexual harassment.

Sexual harassment is unlawful under the Equal Opportunity Act 2010 (Vic) and the Sex Discrimination Act 1984 (Cth) and is prohibited by the ONJCRI.

The ONJCRI takes complaints of sexual harassment seriously. Such complaints will be dealt with in accordance with the Complaints Procedure.

Sexual harassment by an employee, student, contractor and visitor may be regarded as misconduct or serious misconduct and may result in disciplinary action being taken up to and including dismissal. Where the sexual harassment may be a criminal offence it will be referred to the police for investigation.

Policy

Employees, students, contractors and visitors must not sexually harass other employees, students, contractors and visitors.

To determine whether sexual harassment has occurred from a legal perspective, it is necessary to ask whether:

- the behaviour was unwelcome;
- the behaviour was sexual in nature; and
- a hypothetical 'reasonable person', having regard to all the circumstances, would anticipate that the harassed person would feel offended, humiliated or intimidated by the other person's behaviour.

'Unwelcome' Behaviour

Unwelcome behaviour is behaviour that is uninvited, unwanted, and unreciprocated by the recipient/s.

Sexual harassment is not sexual interaction, flirtation, attraction or friendship that is invited, mutual, consensual or reciprocated. This is because this is not 'unwelcome' behaviour and it would not be reasonable to anticipate that this behaviour would offend, humiliate or intimidate.

Sexual harassment can occur unintentionally. A person's intention or motive is not relevant when determining whether the alleged behaviour constitutes sexual harassment.

It is not necessary for the person who has been harassed to have told the harasser that the behaviour was unwelcome for the behaviour to constitute sexual harassment.

'Sexual' Behaviour

Behaviour that has a sexual element or implication is considered to be sexual in nature. Such behaviour includes physical, visual, verbal and non-verbal behaviour. Examples of behaviour of a sexual nature that could constitute sexual harassment include:

- displaying pornographic or sexually explicit material (posters, screen savers etc.);
- unwelcome physical contact, gestures or other non-verbal communication;
- sexually explicit emails, comments, jokes or conversations;
- sexual insults or taunting;
- asking someone for sex;
- making promises or threats in return for sexual favours;
- sexual orientation-based insults or taunts;
- indecent assault, rape or stalking (which are also criminal offences).

Behaviour need not be repeated or continuous; a single incident or comment can amount to sexual harassment. Sexual harassment may be perpetrated or experienced by a person of any sex, gender identity or sexual orientation.

'Reasonable person test'

The 'reasonable person' test requires examination of the particular circumstances. Factors such as the relevant ages of the complainant and the respondent, the context in which the harassment occurred and the nature of the relationship between the parties may be relevant when determining what was reasonable in the circumstances.

The fact that not everybody would be offended by the behaviour does not mean that it will not amount to sexual harassment, and even if that sort of behaviour has previously been accepted within another environment. Behaviour that might be acceptable to the reasonable person in one set of circumstances may not be acceptable in another.

VICTIMISATION

This section applies to victimisation in relation to complaints of sexual harassment and bullying.

Victimisation is when a person subjects (or threatens to subject) another person to a detriment (which can include humiliation and denigration) because that other person has made a formal or informal complaint or been involved in a Complaints Procedure, or because the first person thinks the other person intends to make a complaint or be involved in a Complaints Procedure.

Employees, students, contractors or visitors must not victimise other employees, students, contractors or visitors. Managers/Lab Heads should be mindful of any inappropriate behaviour that might be considered victimisation and take action against such behaviour accordingly.

Victimisation can include physical, visual, verbal and non-verbal behaviour. Examples of victimisation include behaviour such as:

- a supervisor threatening not to send an employee on a training course if that employee makes a complaint about discrimination;
- a supervisor humiliating an employee because that employee gave evidence in support of a colleague in relation to a complaint against the supervisor.

A person may be found liable for victimisation even though the original allegation is not proven is not substantiated. For example, it may constitute victimisation for a manager to give an employee a poor performance review because that employee previously made a complaint against the manager.

A person does not have to be the subject of the complaint to have victimised another person, so long as the victimisation is because of a complaint against a person. For example, it is victimisation if a manager refuses to provide work to an employee who has made a complaint of sexual harassment against another employee in the workplace.

Victimisation also includes victimising a person because another person associated with the first person has made a complaint. For example, it is victimisation for a supervisor to penalise an employee because a colleague of that employee made a complaint of discrimination about the supervisor.

A staff member may raise a concern about victimisation using the Complaints Procedure.

OCCUPATIONAL VIOLENCE

Occupational violence is a physical attack or threat to an employee or group of employees (on ONJCRI premises or whilst engaged in ONJCRI activities) that creates a risk to health and safety.

Occupational Violence can include, but is not limited to:

- Striking, kicking, scratching, spitting or other types of direct contact
- Throwing objects
- Attacking with knives, guns, or other weapons
- Pushing, shoving, tripping, grabbing
- Threats to commit any of the above
- Threats to injure or kill
- Any form of indecent physical assault
- Stalking

Any incidence of occupational violence will be regarded as a serious allegation of unreasonable behaviour.

Behaviour such as threats to harm a person, violence and damage to property can be criminal matters that should be reported to the police.

BREACH OF POLICY

All individuals covered by this policy are expected to adhere to the policy at all times. Any employee, student, contractor and visitor who is found to have breached this policy will be disciplined accordingly, which may lead up to, and include termination of employment or contract

POLICY REVIEW

This policy will be reviewed regularly to ensure all legislative developments are updated within the policy.

REFERENCES/LEGISLATION

1. Code of Conduct Policy
2. Complaints Procedure
3. Equal Opportunity Act 2010 (Vic)
4. Occupational Health & Safety Act 2004 (Vic)
5. Sex Discrimination Act 1984 (Cth)

ACKNOWLEDGMENT OF RECEIPT OF BULLYING AND HARASSMENT PREVENTION POLICY

1. I have read and understand the ONJCRI's Bullying and Harassment Prevention Policy and acknowledge that it forms part of the terms and conditions of my employment with the ONJCRI.

2. I agree to:
 - a) Comply with the Policy.
 - b) Act at all times in the best interests of the ONJCRI, with integrity and according to ONJCRI policies and practices.
 - c) Raise any concerns or possible breaches of the Policy with the Scientific Director, COO or delegate.

Signature: _____

Print Full Name: _____

Date: _____