

Policy: Equal opportunity, Anti-discrimination and Anti-harassment Policy

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Custodian:	Level 3 - Board	File/Lifesaving Unit	Corporate Services

1 Purpose

- 1.1 At Royal Life Saving Society Western Australia (Inc) (**RLSSWA**), we value diversity and equal opportunity. We aim to ensure that our working environment is free from discrimination, bullying, unlawful adverse action and harassment.
- 1.2 This policy (**Policy**) endeavours to establish and implement standards and procedures to create a protective workplace, controlling risks of discrimination, harassment, bullying, adverse action for prohibited reasons and victimisation.

2 Scope

- 2.1 This Policy applies to all workers, including employees, contractors, consultants and volunteers. In this Policy, all people to whom the Policy applies are referred to as “you”.
- 2.2 The Policy applies to your behaviour at your normal place of work, as well as situations outside work where you are representing the RLSS-WA. Examples include social functions, conferences, and work carried out at sites that are not operated by the RLSS-WA such as client premises.
- 2.3 You must comply with this Policy when using our equipment or facilities, including our computer and telephone systems.
- 2.4 This Policy also applies to our dealings with our customers, clients and suppliers.
- 2.5 For the purposes of this Policy the “workplace” Includes any place connected to your work. This may include off-site work, conferences, client premises, working from home arrangements, or work-related social activities. Conduct covered by this Policy does not have to occur within business hours.

3 Policy

- 3.1 RLSS-WA considers discrimination, harassment, bullying, adverse action for prohibited reasons and victimisation of any type to be unacceptable and aims to eliminate this conduct from the workplace.
- 3.2 Anyone who discriminates, victimises, takes adverse action, vilifies, bullies and/or harasses another person may be subject to disciplinary action, up to and including dismissal.
- 3.3 To raise a problem or concern or make a complaint under this Policy, you can contact your Relevant Line Manager, Lifesaving Unit Manager or Human Resource Coordinator.

4 Effect of the Policy

- 4.1 This Policy sets out the guidelines by which the RLSS-WA will endeavour to resolve any complaints of, and ultimately seek to eliminate, discrimination, harassment, bullying, adverse action for prohibited reasons and victimisation in the workplace.
- 4.2 The contents of this Policy, to the extent that they impose obligations on the RLSS-WA, do not constitute contractual terms, conditions or representations on which you can rely.

5 Responsibilities

5.1 Staff responsibilities

At all times, you are required to:

- (1) comply with this Policy and the Code of Conduct.

- (2) accept your responsibilities under this Policy to one another, to clients and other people you deal with in the course of work.
- (3) treat people with respect and courtesy at all times and in a fair manner.
- (4) respect each other's privacy.
- (5) avoid any offensive comments or behaviour.
- (6) comply with applicable laws; and
- (7) raise any concerns or questions about the understanding of, or non-compliance with, this Policy.

5.2 Responsibilities of management

To guard against discrimination, bullying, adverse action and harassment, the RLSS-WA expects managers to:

- (1) know their legal responsibilities and the RLSS-WA's expected standard of commitment as outlined in the Code of Conduct;
- (2) set an appropriate standard of behaviour and lead by example;
- (3) ensure that all people covered by this Policy feel free to make complaints without fear or recrimination;
- (4) assist with, and be supportive of, any investigation that is undertaken;
- (5) exercise judgement to discourage frivolous or false complaints;
- (6) take early corrective action in consultation with the Lifesaving Unit Manager or Human Resource Coordinator to deal with behaviour that may be offensive or intimidating to some people; and
- (7) contact the Lifesaving Unit Manager or Human Resource Coordinator immediately if they receive a complaint of bullying, harassment or discrimination.

5.3 Responsibilities of the RLSS-WA

- (1) The RLSS-WA will periodically review this Policy and make appropriate amendments to it.
- (2) The RLSS-WA will endeavour to:
 - (a) develop, implement, monitor, review and report compliance with this Policy in accordance with relevant legislation; and
 - (b) promote and support adherence to this Policy.

6 Equal opportunity

6.1 The RLSS-WA is committed to providing equal opportunity in all aspects of its activities.

6.2 The RLSS-WA aims to ensure that all staffing and personnel decisions are made solely on the basis of merit, considering relevant skills, qualifications, experience and ability, and without bias or prejudice. This includes all decisions relating to the provision of training, transfer, promotion, terms of employment or engagement, or dismissal.

6.3 The RLSS-WA is also committed to providing equal opportunity when providing or supplying goods or services.

7 Adverse action

7.1 What is adverse action

Adverse action is a set of harmful actions a person takes or threatens to take. It includes (but is not limited to) dismissal, harming an employee by changing their job or cutting shifts, terminating a contractor, not hiring someone, or discrimination.

Not all harmful action is adverse. Examples include genuine redundancy, standing down an employee (where it is legal to do so) or offering a lower salary to a job applicant because of lesser experience.

Comprehensive information about adverse action can be found in the resources below:

- [Fair Work Ombudsman: Protection from discrimination at work](#)
- [Fair Work Commission: What is adverse action?](#)

8 Discrimination

8.1 You must not discriminate against another person or a group of people or engage in adverse action on unlawful discriminatory grounds. Unlawful workplace discrimination occurs when an employer takes adverse action against an employee or prospective employee because of protected attributes.

8.2 Discrimination defined

The RLSS-WA will not tolerate its employees engaging in discrimination or adverse action based on any of the following **grounds**:

- Gender
- Race, ethnicity or social origin
- Relationship status
- Impairment
- Pregnancy
- Religious belief or activity
- Association with or relation to a person identified on the basis of an attribute associated with any of the above grounds.
- Parental status
- Political belief or activity
- Family responsibilities
- Trade union activity (or inactivity)
- Breastfeeding
- Lawful sexual activity
- Age
- Profession, trade, occupation or calling
- Irrelevant criminal record
- Irrelevant medical record
- Gender identity
- Physical features

Discrimination or adverse action for prohibited reasons does not have to be calculated, intentional or even conscious.

8.3 Australian anti-discrimination laws

There are a number of laws at both state and federal level that make direct and indirect discrimination, and adverse action for prohibited reasons, unlawful.

Federal anti-discrimination laws include the following:

- (a) Fair Work Act 2009 (Cth)
- (b) Racial Discrimination Act 1975 (Cth);
- (c) Sex Discrimination Act 1984 (Cth);
- (d) Disability Discrimination Act 1992 (Cth);
- (e) Australian Human Rights Commission Act 1986 (Cth); and
- (f) Age Discrimination Act 2004 (Cth).

There are some exceptions to the antidiscrimination and adverse action laws which apply in limited situations. For example, it is not unlawful to decide not to employ a person who has an attribute, for example a disability, which makes it impossible for the person to perform the inherent requirements of the position. However, whether conduct amounts to unlawful discrimination will depend on the circumstances of each individual case. You should speak to the Lifesaving Unit Manager or Human Resource Coordinator to obtain advice in relation to any particular case.

For further information, visit Fair Work's information page [here](#).

9 Sexual Harassment

<https://www.fairwork.gov.au/employment-conditions/bullying-sexual-harassment-and-discrimination-at-work/sexual-harassment-in-the-workplace>

9.1 What is Sexual harassment?

Sexual harassment is:

- an unwelcome sexual advance or request for sexual favours to the person being harassed
- other unwelcome sexual conduct towards the person being harassed.

To be sexual harassment, there must be a reasonable possibility that the person being harassed would be:

- offended
- humiliated, or
- intimidated.

This means that whether behaviour is sexual harassment depends on how a reasonable person would interpret the behaviour in that situation.

Behaviour that is sexual harassment in one situation may not be in a different situation. When working out whether behaviour is sexual harassment, the intention of the alleged harasser doesn't matter.

Sexual harassment doesn't have to be repeated or continuous. It can be a one-off incident.

9.2 **What is sexual harassment?**

Examples of sexual harassment include the following:

- inappropriate physical contact, such as unwelcome touching
- staring or leering
- a suggestive comment or joke
- a sexually explicit picture or poster
- an unwanted invitation to go out on dates
- a request for sex
- intrusive questioning about a person's private life or body
- unnecessary familiarity, such as deliberately brushing up against a person
- an insult or a taunt of a sexual nature
- a sexually explicit email or text message.

Unwanted sexual advances, and invitations on dates, can constitute harassment even if you do not intend to cause offence, hurt or humiliation by the advance or invitation. You must, therefore, always ensure that you do not engage in any form of conduct which:

- (a) creates a hostile or distressing environment;
- (b) damages a person's prospects for promotion or other employment benefits;
- (c) undermines morale or causes stress; or
- (d) reflects adversely on your personal integrity or the integrity of the RLSS-WA.

- (2) Friendships (sexual or otherwise) or mutual attraction between consenting adults are a private concern and may not constitute harassment. However, the RLSS-WA expects that your personal friendships will not impact on your responsibilities to do your work, or on the performance or productivity of your co-workers.

10 Bullying

10.1 **Prohibition on bullying**

- (1) The laws to stop bullying under the Fair Work Act only apply to certain workers in Australia. A worker includes:

- an employee
- a contractor or subcontractor
- an outworker
- an apprentice or a trainee
- an intern
- a student gaining work experience
- some volunteers.

The Fair Work Commission (FWC) is the national workplace relations tribunal that deals with applications to stop bullying at work under the Fair Work Act.

Source reference: [Fair Work Act 2009 s.789FA – 789FI](#)

- (2) The RLSS-WA considers bullying of all types unacceptable. All forms of workplace bullying are prohibited. If you engage in bullying, you may be subject to disciplinary action

- (3) Workplace bullying is a risk to health and safety. Engaging in bullying could also constitute a breach of your obligations under occupational health and safety legislation.
- (4) Bullying can have detrimental effects on people and result in a loss of trained and talented workers, the breakdown of teams and individual relationships and reduced efficiency. People who are bullied can become distressed, anxious, withdrawn and depressed, and can lose self-esteem and confidence

10.2 What is workplace bullying

- (1) Workplace bullying is:
 - (a) inappropriate behaviour, which will usually consist of repeated conduct;
 - (b) capable of being direct, indirect, written, digital, verbal or physical;
 - (c) conducted by one or more persons against another person or persons;
 - (d) conducted at the place of work and/or in the course of employment or engagement; and
 - (e) conduct which could be reasonably regarded as undermining an individual's right to dignity at work.
- (2) Examples of bullying include:
 - (a) Abusing a person loudly, usually when others are present;
 - (b) Repeated threats of dismissal or other severe punishment for no reason;
 - (c) Constant ridicule and being put down;
 - (d) Leaving offensive messages on email or the telephone;
 - (e) Sabotaging a person's work, for example, by deliberately withholding or supplying incorrect information, hiding documents or equipment, not passing on messages and getting a person into trouble in other ways;
 - (f) Maliciously excluding and isolating a person from workplace activities;
 - (g) Persistent and unjustified criticisms, often about petty, irrelevant or insignificant matters;
 - (h) Humiliating a person through gestures, sarcasm, criticism and insults, often in front of customers, management or other workers; and
 - (i) Spreading gossip or false, malicious rumours about a person with an intent to cause the person harm.

The above examples may be regarded as bullying if the behaviour is repeated or occurs as part of a pattern of behaviour. This is not an exhaustive list; however, it does outline some of the more common types of harassing behaviours.

- (3) Bullying does **not** include:
 - (a) reasonable behaviour that does not break any law;
 - (b) differences of opinion;
 - (c) reasonable and legitimate performance and behaviour counselling and disciplinary action;
 - (d) setting reasonable work goals and standards;
 - (e) reasonable supervision and performance of other genuine work-based responsibilities;
 - (f) legitimate restructuring or re-organising of a business or work; and
 - (g) a single instance of harassing type behaviour (unless the behaviour includes physical abuse or exceptionally cruel or malicious behaviour).

11 Victimisation and workplace rights

- 11.1 Victimisation occurs when a person is subjected to a detriment because they made a complaint in good faith or were a witness to, or involved in the investigation of, a complaint of discrimination, harassment or bullying.
- 11.2 You must not victimise anyone as a result of their making or witnessing a complaint.

- 11.3 A person has a workplace right if they can make a complaint about their employment. Adverse action on the basis of a workplace right occurs when a person is treated detrimentally compared to other people or has their position altered to their disadvantage to stop them making a complaint, or because they can make a complaint, have made a complaint or propose to make a complaint.
- 11.4 You must not take adverse action against someone else to stop them making a complaint, or because they can make, have made, or propose to make a complaint.

12 Complaint resolution process

- 12.1 Refer to the process outlined in the Level 4 Management and Operating standards > People management > Complaints Process

13 Additional resources

<https://www.fairwork.gov.au/employment-conditions/bullying-sexual-harassment-and-discrimination-at-work/bullying-in-the-workplace>

<https://www.fairwork.gov.au/employment-conditions/bullying-sexual-harassment-and-discrimination-at-work/sexual-harassment-in-the-workplace>

<https://www.fairwork.gov.au/employment-conditions/protections-at-work/protection-from-discrimination-at-work>

<https://www.safeworkaustralia.gov.au/resources-and-publications/guidance-materials/guide-preventing-and-responding-workplace-bullying>

<https://www.safeworkaustralia.gov.au/resources-and-publications/guidance-materials/guide-preventing-and-responding-workplace-bullying>

https://humanrights.gov.au/our-work/sex-discrimination/publications/ending-workplace-sexual-harassment-resource-small-medium?_ga=2.136771824.1992097580.1629949059-641548023.1626312841

<https://www.safeworkaustralia.gov.au/safety-topic/hazards/sexual-and-gender-based-harassment>

<https://www.respectatwork.gov.au/>

<https://humanrights.gov.au/our-work/sex-discrimination/positive-duty-sex-discrimination-act>