

EEO, Discrimination, Bullying, Harassment Policy and Procedure

Purpose

Quirindi Preschool kindergarten is committed to providing a workplace which is free from bullying, harassment and unlawful discrimination. We aim to ensure everyone is treated with respect, dignity and fairness, and to create an inclusive environment which promotes positive working relationships.

This policy is designed to ensure that all employees understand what will be regarded as discrimination, bullying and harassment, how complaints of discrimination, bullying and harassment can be made and how claims will be treated by Quirindi Preschool kindergarten.

This policy also supports a child safe culture by ensuring behaviour within the workplace does not place children, families or others at risk.

Scope

This policy applies to all “workers” performing work for Quirindi Preschool kindergarten.

A “**worker**” includes any individual who performs work in any capacity for Quirindi Preschool kindergarten, whether as an employee, subcontractor, contractor, outworker, apprentice, trainee, student gaining work experience or volunteer.

This Policy is not limited to the workplace or work hours. This Policy extends to all functions and places that are work related. For example, training, work lunches, conferences, Christmas parties and client functions.

This policy also applies to interactions with children, families, visitors and any other persons engaged with the service.

GOVERNING LAW

Bullying, discrimination, harassment and sexual harassment are not only unacceptable, but also unlawful under State & Federal legislation, including:

- *Sex Discrimination Act 1984 (Cth)*
- *Racial Discrimination Act 1975 (Cth)*
- *Disability Discrimination Act 1992 (Cth)*
- *Age Discrimination Act 2004 (Cth)*
- *Human Rights and Equal Opportunity Commission Act 1986 (Cth)*
- *Fair Work Act 2009 (Cth)*



Policy

Equal Employment Opportunity

Equal Employment Opportunity (EEO) laws apply to all areas of employment, as well as the provision of goods and services.

Employment decisions are based on merit, professional capability and the needs of children and families, not on irrelevant personal attribute or characteristics that an individual may possess. Quirindi Preschool kindergarten also tries to create a work environment which promotes good working relationships.

We will provide equal opportunity in respect to employment and employment conditions matters that include but are not limited to:

- Recruitment & Selection
- Transfers and Promotions
- Performance Reviews
- Training & Development
- Supervision and management of Staff
- Performance Improvement Procedures
- Remuneration & Benefits
- Termination of employment

Bullying

Bullying is not an acceptable part of our workplace culture. It can harm a person's health and wellbeing.

Bullying is repeated, unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety. Bullying can occur by direct or indirect means.

Repeated behaviour refers to the persistent nature of the behaviour and can involve a range of behaviours over time.

Unreasonable behaviour means behaviour that a reasonable person, having regard for the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.

Direct bullying occurs between the specific people involved.

Indirect bullying involves third parties participating in bullying behaviours, for example passing on insults or spreading rumours. Indirect bullying mostly inflicts harm by damaging another's social reputation, peer relationships and self-esteem.

Bullying may take many forms. The following behaviours, could be considered bullying:

- Undermining a colleague in front of children or families
- Excluding educators from critical information relating to children or room operations
- Using children, families or rosters as a means of control or punishment
- Verbal abuse

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- Excluding or isolating employees
- Intimidation
- Assigning meaningless tasks
- Interfering with a person's personal effects or work equipment
- Giving employees impossible assignments
- Deliberately changing work rosters to inconvenience particular employees
- Deliberately withholding information that is vital for effective work performance
- Constant criticism or criticising in front of others

The following would not be likely to constitute bullying, rather these actions would be considered reasonable management actions;

- Informing an employee about unsatisfactory work performance including undertaking performance management
- Setting reasonable performance goals, standards and deadlines
- Reasonable direction from a manager, including rostering and allocation of work hours where the requirements are reasonable and consistent with service needs and child safety obligations.
- Implementing organisational changes or restructuring.

Discrimination

Unlawful discrimination is the less favourable treatment of a person or a group of people based on particular attributes.

Under the Fair Work Act, it is unlawful to discriminate based on:

- race
- colour
- sex
- sexual orientation
- breastfeeding
- gender identity
- intersex status
- age
- physical or mental disability
- marital status
- family or carer's responsibilities
- pregnancy
- religion
- political opinion
- national extraction
- social origin

- experiencing (or having experienced) family and domestic violence.

There may also be state specific attributes in addition to the above list.

Discrimination may be direct or indirect:

Direct discrimination occurs when a person is denied a benefit or an opportunity on the grounds of any of the prescribed attributes. For example, an employer refusing to promote someone because of their age.

Indirect discrimination occurs when a policy, rule or practice has a discriminatory effect against a person or group of people in relation to any of the prescribed attributes. For example, a workplace policy that permits women to wear earrings but not men.

Other examples of discrimination may include but are not limited to:

- Decisions on the terms by which work is offered or performed
- In denying access or limiting access to opportunities for promotion, transfer or training, or to any other benefit to do with performing work
- By creating, allowing or tolerating a hostile or demeaning environment related to an illegal ground of discrimination
- Unfair discipline or criticism

Harassment

Harassment occurs where a person engages in uninvited or unwelcome behaviour which a reasonable person would expect would cause another person to be offended, humiliated or intimidated. It does not matter if the person who committed the act intended, or did not intend, to upset or cause offence to the other person.

Particular care must be taken in early learning environments due to inherent power imbalances between roles, including leaders, educators, trainees, students and volunteers.

Harassment can be physical, verbal or written and can include words, pictures or statements. It may occur by way of an ongoing pattern of behaviour; a series of incidents; an isolated incident of harassment.

Some examples of harassing behaviour include:

- Jokes or cartoons about someone's appearance, body shape, or any other personal matter that may cause embarrassment and make people feel uncomfortable
- Leering, patting, pinching, touching or other unnecessary familiar acts
- Offensive comments on physical appearance, dress or private life
- Messages (words or images), telephone calls, out of place gifts or suggestive comments relating to such issues as dress, physical appearance, marital status or sexual preference



- Intrusive enquiries or questions about someone's private life, sexuality or physical appearance

Sexual Harassment

Sexual harassment occurs when:

- a person makes an unwelcome sexual advance or an unwelcome request for sexual favours, to the person harassed
- engages in other unwelcome conduct of a sexual nature in relation to the person harassed.
- a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

Quirindi Preschool kindergarten will not tolerate sexual harassment or victimisation and is committed to taking all reasonable steps to prevent an employee from engaging in acts of sexual harassment or victimisation in connection with their employment. Quirindi Preschool kindergarten understands it has a legal responsibility to prevent sexual harassment in the workplace and unless Quirindi Preschool kindergarten has taken all reasonable steps to prevent an employee from engaging in sexual harassment or victimisation in connection with his or her employment, the Company may be vicariously liable for such conduct. This Policy is a proactive step in preventing sexual harassment in the workplace. Each employee will receive this policy upon commencement of employment and can access it for the duration of their employment. Quirindi Preschool kindergarten will undertake periodic reviews on this Policy and reporting procedure to gain workers views on the efficacy of the policy, and whether the policy is complied with.

Acts of sexual harassment or victimisation occurring after work or outside of the specific workplace may still be considered 'in connection' with an employee's employment. Therefore, this policy is applicable to any conduct occurring after office hours or outside of the workplace (including but not limited to social engagements that may be in connection with the Company). Further, being under the influence of drugs or alcohol is not considered an excuse for engaging in sexual harassment or victimisation.

Sexual harassment doesn't have to be repeated or continuous. It can be a one-off incident. Sexual harassment in connection to employment can be considered serious misconduct and can be a valid reason for dismissal.

Depending on the circumstances, the following kinds of behaviour may be deemed sexual harassment and may be unlawful:

- Persistent, unwelcome demands or even subtle pressure for sexual favours
- The public display of inappropriate material, ranging from material that might be considered mildly erotic through to sexually explicit and other offensive material
- 'humour' such as inappropriate or sexist jokes or comments

- Innuendo, including sexually provocative remarks, suggestive or derogatory comments about someone's physical appearance, inferences of sexual morality or comments of sexual or reproductive performance
- Repeated requests for 'drinks' or 'dates', especially when they have been refused previously
- Requests for sexual favours, gestures or body movements of a sexual or intimidating nature

Conduct must be 'unwelcome'

Conduct will only be deemed sexual harassment if it is 'unwelcome'. Consensual conduct will not be 'unwelcome'. Unwelcome conduct is conduct that was not solicited or invited by the person, and the person regarded the conduct as undesirable or offensive. It is a subjective test and relies on how the action was perceived and experienced by the recipient rather than the intention behind it.

Intention is irrelevant

Employees do not need to intend to offend, humiliate or intimidate, or even to know that this was the effect of their own behaviour for this conduct to be sexual harassment. For example, a practical joke that 'everyone else thinks you are funny' can amount to sexual harassment as long as somebody else finds it offensive and regardless of the intentions of the person saying this.

Hostile work environment

It is unlawful for a person to subject another person to a workplace environment that is hostile on the ground of sex. This includes any conduct in the workplace (including any statement, whether made orally or in writing) that a reasonable person would have anticipated could result in the workplace environment being offensive, intimidating or humiliating to a person or persons of a particular sex.

At all times, workers must conduct themselves in a respectful manner toward other workers and customers.

Obligations

All employees have a responsibility to address observed incidents of bullying, discrimination, harassment, or sexual harassment or if they hear that it has occurred. This can occur in the workplace or during any work-related activity. They must co-operate with any reasonable policy or procedure which relates to the prevention of bullying, discrimination, harassment or sexual harassment in the workplace or during a work-related activity.

Appropriate ways to address and respond to an incident may be:

- Report It: Say something about the behaviour to the Director, Assistant Director or Approved Provider (committee)
- Call it out: if you feel safe and comfortable to do so and address the behaviour in the moment in a professional and calm manner. This can also be an opportunity to educate

the person on the correct behaviour if appropriate. This is not an expectation to intervene physically or restrain a person.

- Support each other: check in on the person who the behaviour was directed at and make sure they are ok and educate them on options to report or respond.
- Immediately report any behaviour that raises concerns about child safety, inappropriate conduct around children, or conduct that may place children at risk.

Responding to and addressing incidents of discrimination, harassment and sexual harassment is an important step to the prevention of these behaviours in the workplace.

What to do if you have a complaint

Quirindi Preschool kindergarten aims to resolve all complaints of bullying, discrimination or harassment which may arise at the workplace in accordance with our Grievance Policy. Quirindi Preschool kindergarten can only do this if employees tell us about their complaints and concerns. All such complaints will be taken seriously, treated with confidentiality and resolved as quickly as reasonably possible

Any worker who believes they are being, or have been, bullied, discriminated against, harassed, or sexually harassed, should take the following steps:

- a) Tell the offender the behaviour is offensive, unwelcome, and against business policy and should stop (only if you feel comfortable enough to approach them directly, otherwise speak to your manager). Keep a written record of the incident(s).
- b) Contact your direct supervisor or manager for support. Advise them of what has been occurring and when. They may ask you to provide these details in writing.
- c) If you are unable to contact your direct supervisor or manager (e.g. if they are involved in the situation) you should get in touch with the Approved provider (QPK Committee) If you witness another person being discriminated against, harassed, sexually harassed or bullied, you are obligated to report it to your direct supervisor or manager immediately.

Confidentiality

Quirindi Preschool kindergarten will seek to ensure the protection of the privacy of complainants for complaints relating to sexual harassment. However, there may be circumstances in which information relating to the complaint is disclosed – for example, to facilitate investigation, resolution or to prevent future conduct.

Those people who are involved in the complaint (including the complainant, witnesses etc.) are also under a duty to maintain confidentiality and display a commitment to uphold the integrity of the investigation process. If the complainant chooses to bring a support person with them to any meetings, they too are bound by confidentiality. Gossiping and/or the spreading of rumours as a result of, or in connection with, a process followed under this policy will not be tolerated under any circumstances and may lead to further disciplinary action for those concerned.

Victimisation

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Quirindi Preschool kindergarten strictly prohibits victimisation. Victimisation occurs when a person subjects, or threatens to subject, another person to any detriment because they have:

- Made, or propose to make, a complaint of bullying, discrimination, harassment, or sexual harassment.
- Provided information in relation to a complaint or investigation.
- Asserted their rights under applicable anti-discrimination, workplace relations, or equal opportunity laws.
- Assisted, supported, or acted as a witness for another person in relation to a complaint.

Detriment may include, but is not limited to, dismissal, demotion, intimidation, threats, harassment, ostracism, unfavourable changes to work duties or conditions, or adverse comments.

Any form of victimisation will be treated as serious misconduct and may result in disciplinary action, up to and including termination of employment.

Reporting Sexual Harassment Externally

In addition to reporting instances of sexual harassment to Quirindi Preschool kindergarten, complaints can also be made externally to the following bodies:

Australian Human Rights Commission	1300 656 419 https://humanrights.gov.au/
Fair Work Commission	1300 799 675 www.fwc.gov.au
State-based WHS Regulator	NSW: www.safework.nsw.gov.au

Vilification

Quirindi Preschool kindergarten does not tolerate vilification in any form and is committed to proving a workplace that is respectful, inclusive, and free from behaviour that demeans, humiliates, or incites hostility towards others.

Vilification refers to a public act that could incite others to hate, have serious contempt for or severely ridicule a person or group of people. This includes any communication to the public (verbal, written, or online), behaviour in public spaces, or any actions where the audience extends beyond the immediate workplace context.

Vilification will not be tolerated under any circumstances and may also be a criminal offence under applicable legislation.

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Additional Support Resources

Quirindi Preschool kindergarten has an Employee Assistance Program (EAP) available. The EAP offers psychological support to employees via an external service provider.

- **1800Respect**
Phone: [1800 737 732](tel:1800737732)
Website: 1800Respect.org.au
- **Lifeline**
Phone: [131 114](tel:131114)
Website: Lifeline.org.au
- **Beyond Blue**
Phone: [1300 224 636](tel:1300224636)
Website: [Beyond Blue](http://BeyondBlue.org.au)
- **MensLine**
Phone: [1300 789 978](tel:1300789978)
Website: [MensLine Australia](http://MensLineAustralia.org.au)

Conduct that breaches this policy

Conduct that breaches this policy is unacceptable and, depending on the severity and circumstances, may lead to disciplinary action regardless of the seniority of the worker(s) involved.

Quirindi Preschool kindergarten shall take appropriate disciplinary action against any employee who is responsible for, or engages in, any form of bullying, discrimination or harassment.

Disciplinary action may include any of the following:

- Demotion;
- A requirement to provide a written or verbal apology;
- A formal warning;
- A requirement to attend training or counselling; and
- Dismissal.

If you have any questions in relation to this policy, please contact Human Resources.

Policy Variation

Quirindi Preschool kindergarten may unilaterally introduce, vary, remove or replace this policy after a 14 day notification period.