
RESPECTFUL WORKPLACE POLICY

OVERVIEW

MTC is committed to ensuring that the working environment is free from bullying, harassment, sexual harassment and discrimination and to ensuring that a positive and supportive working environment is provided to all employees, actors, creatives, contractors and visitors.

AIM

We aim to:

- foster an environment where everyone is treated with dignity, courtesy and respect;
- promote appropriate standards of conduct at all times;
- implement training and awareness-raising strategies to ensure that everyone knows their rights and responsibilities; and
- encourage reporting of inappropriate behaviour and provide an effective procedure for resolving complaints in a sensitive, fair and timely manner and as confidentially as possible.

This Policy sets out what constitutes discrimination, harassment, sexual harassment, aggressive behaviour and bullying and procedures to be undertaken should you be exposed to any of these situations.

APPLICATION

This policy applies to all MTC employees including Creative Teams.

LEGISLATION AND RELATED MTC POLICIES

Both Federal and State legislation is relevant to the concepts discussed in this Policy. This legislation includes:

- *Age Discrimination Act 2004* (Cth)
- *Australian Human Rights Commission Act 1986* (Cth)
- *Charter of Human Rights and Responsibilities Act 2006* (Vic)
- *Disability Discrimination Act 1992* (Cth)
- *Equal Opportunity Act 2010* (Vic)
- *Fair Work Act 2009* (Cth)
- *Occupational Health and Safety Act 2004* (Vic)
- *Racial and Religious Tolerance Act 2001* (Vic)
- *Racial Discrimination Act 1975* (Cth)
- *Sex Discrimination Act 1984* (Cth)
- *Workplace Gender Equality Act 2012* (Cth)

The following are all the legislations that cover child safety and working with children in Victoria and federally:

- *Child Wellbeing and Safety Act 2005* (Vic);
- *Crimes Act 1958* (Vic)
- Department of Foreign Affairs and Trade Child Protection Policy;
- *Education Services for Overseas Students Act 2000* (Cth);
- United Nations Convention on the Rights of the Child;
- Victorian Charter of Human Rights and Responsibilities;
- Victorian Child Safe Standards;
- *Working with Children Act 2005* (Vic).
- Child Employment Act 2003 – which informs the ‘Mandatory Code for the employment of Children in Entertainment’

Related MTC Policies & Procedures

Policies and procedures do not form part of the terms of the employment contract and may be varied from time to time due to changing legislation and changes to the needs of the organisation. The following policies and procedures are relevant to this policy:

- Environment Health & Safety Policy and procedures
- Online Engagement Policy
- Conflict of Interest Policy
- Childsafe Policy
- Grievance Resolution Procedure
- Discipline Procedure

Other industry Policies & Procedures

- Broadcasting, Entertainment, Communications & Theatre Union and Equity policies, as these may change from time to time

RESPONSIBILITIES

All employees, actors, creatives and contractors have a responsibility to treat each other fairly, with respect and will ensure that they do not discriminate against, harass, sexually harass or bully anyone. Any reports of discrimination, harassment, sexual harassment or bullying will be treated seriously and dealt with promptly, confidentially and impartially by MTC and/or the individuals direct employer if not engaged by MTC.

This policy applies to all work related activities including those outside normal working hours such as opening nights, conferences and work social activities and includes harassment/bullying conducted via technologies such as social media and text messaging.

DISCRIMINATION

It is unlawful to discriminate against or harass a person in employment (or in the provision of goods and services) on the basis of any of the following attributes or personal characteristics:

- age;

- disability or impairment (physical, intellectual, mental or psychiatric);
- race, colour, descent or national or ethnic origin;
- religious belief or activity;
- sex;
- employment activity (type of job performed);
- gender identity;
- transgender or transsexual status;
- lawful sexual activity/sexual orientation;
- family, marital, parental or carer status;
- physical features;
- political opinion, belief or activity;
- industrial activity or membership of an industrial association;
- pregnancy or potential pregnancy;
- breast feeding;
- medical record;
- criminal record; and
- personal association with a person who is identified by reference to any of the above attributes.

In summary, discrimination is treating a person differently or unjustly based on an identified attribute or personal characteristic. Discrimination can be either direct or indirect.

Direct Discrimination

Direct discrimination is treating, or proposing to treat, a person less favourably on the basis of an attribute or personal characteristic of the person which is covered by equal opportunity law, regardless of the discriminator's motive and whether they are aware of the discrimination or consider the treatment to be less favourable.

Indirect Discrimination

Indirect discrimination is imposing, or intending to impose, on a person with an attribute or characteristic covered by equal opportunity law a requirement, condition or practice that can only be complied with by a higher proportion of people without the attribute or personal characteristic. Awareness of the discrimination is irrelevant. Indirect discrimination can occur when a requirement, condition or practice that appears to be neutral, in fact has a disproportionately negative impact on a particular group.

HARASSMENT

Harassment is unwelcome and unwanted conduct based on one of the attributes listed above that causes a person to be offended, humiliated or intimidated. The reasonable person test applies. That is, would a reasonable person, given all the circumstances, have anticipated that the behaviour would be found offensive, humiliating or intimidating?

A person sexually harasses another if he or she:

SEXUAL HARASSMENT

- makes an unwelcome sexual advance
- makes a request for sexual favours or

- engages in any other unwelcome conduct of a sexual nature.

Sexual harassment is unwelcome, uninvited conduct that is offensive from the view point of the person harassed, regardless of any innocent intent on the part of the offender. It is not behaviour that is based on mutual attraction between people or friends. Sexual harassment may occur in a single incident or series of incidents.

Types of sexual harassment

Sexual harassment can take many forms and can be physical, verbal or written. It is not just the obvious harassment of unwelcome physical behaviour such as inappropriate touching, patting, brushing up against someone or offensive gesturing. Sexual harassment can either be direct or indirect. Sexual harassment takes a variety of forms, including:

- Sexual or suggestive remarks;
- Sexual propositions or repeated requests for dates;
- Sexual jokes and innuendo;
- Physical contact such as touching, deliberate brushing up against a person, hugging etc. against a person's will;
- Offensive telephone calls, reading matter, email, screen savers, pictures, calendars etc.;
- Suggestive looks or leers;
- Sexually explicit conversations.

BULLYING

Workplace bullying occurs when:

- an individual or group of individuals **repeatedly** behave **unreasonably** towards a worker or a group of workers **at work**, and
- the behaviour creates a **risk to health and safety**.

A **risk to health and safety** means the possibility of danger to both physical and mental health and safety.

Wilful or deliberate conduct that causes serious and imminent risk to the health and safety of a person or persons is considered to be **serious misconduct** and may result immediate dismissal.

Unacceptable behaviour makes the workplace uncomfortable, unpleasant and often unsafe. The following types of behaviour, where repeated or occurring as part of a pattern of behaviour, could be considered bullying:

- Aggressive and intimidating conduct;
- Belittling or humiliating comments;
- Victimisation;
- Spreading malicious rumours;
- Excluding or isolating employees;
- Psychological harassment;
- Pressure to behave in an inappropriate manner;

- Assigning meaningless tasks unrelated to the job;
- Giving employees impossible assignments;
- Deliberately changed work rosters to inconvenience particular employees;
- Deliberately withholding information vital for effective work performance.

The list is not exhaustive and other types of behaviour may also constitute bullying. Bullying is not usually a once off incident but could be considered so if the once off incident is sufficiently serious.

MANAGEMENT ACTION

Reasonable management action conducted in a **reasonable manner** does not constitute workplace bullying.

The following are examples of what may constitute appropriate management actions:

- performance appraisals
- ongoing meetings to address underperformance
- counselling or disciplining a worker for misconduct
- modifying a worker's duties including by transferring or re-deploying the worker
- investigating alleged misconduct
- denying a worker a benefit in relation to their employment
- Refusing an employee permission to return to work due to a medical condition.

An informal, spontaneous conversation between a manager and a worker may not be considered management action, even if issues such as those listed above are raised.

VICTIMISATION

Victimisation is treating someone unfairly because that person, or someone they associate with, has made, or intends to make, a complaint under this policy. It is unlawful to victimise or penalise a person for making a complaint in good faith. We are committed to making sure that anyone who makes a complaint or assists in making a genuine complaint is supported and not penalised in any way.

Immediate disciplinary action will be taken against any employee who victimises or retaliates against a person who has made a complaint.

VEXATIOUS COMPLAINTS

Inaccurate, misleading, malicious or false accusations have negative consequences for the person(s) concerned, interpersonal relationships and morale of the workplace office.

Where it is found that a complaint has been made in bad faith to cause distress to one or more persons, or as a practical joke, disciplinary measures will be taken.

**CHILDREN IN THE
WORKPLACE**

Melbourne Theatre Company (MTC) is committed to child safety and to ensuring that children are made aware of and feel confident in their rights when at MTC.

We understand our obligations under Victorian Child Employment laws and the Code of Practice for the Entertainment Industry, and will take action to ensure compliance at MTC.

We have a zero tolerance of child abuse and will take all necessary steps to prevent and protect children at MTC from any form of abuse or neglect, including physical, sexual, emotional, psychological, and cultural abuse.

We will ensure that principles of equality and diversity embedded in MTC's Respectful Workplace and Equal Employment Opportunity policies and that these apply to children at MTC.

Recognising that the wellbeing of many children is adversely affected by economic, cultural and social factors and disability, in our activities with children we aim to:

- Promote the cultural safety of Aboriginal children
- Promote the cultural safety of children from culturally/and or linguistically diverse backgrounds
- Promote the safety of children with a disability.

**BREACH OF
POLICY**

In the case where this or related policies are breached resolution will be according to the MTC Discipline Procedure.

If you believe you have been a victim or have witnessed a breach of this policy or related policies, report all instances to management. Resolution will be according to the MTC Grievance Resolution Procedure or that of the direct employer if not engaged by MTC.

**VERSION
CONTROL**

Date of Review: 1 May 2017
Department: Human Resources
Author: Human Resources Manager
Status: DRAFT
Approved by: MTC Board of Management
Version: Industry Standards
File Path: Z:\MTC Shared\Policies & Procedures\Industry Standards
DRAFT Respectful Workplace Policy 2017

Authorised by

Virginia Lovett
Executive Director