



# Equal Employment Opportunity (EEO) Policy & Procedure (including discrimination, harassment, bullying and victimisation in the workplace)

## Document control

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## Revision record

Version	Date released	Approved by	Revision description
1.0	April 2015	Board	Updated from the Employee Handbook version
1.1	January 2017	Georgie Harman, CEO	Document reviewed by HR, Document Control and Revision Record changed for consistency with new format. HR Team members added as EEO Contact Officers. No other changes required.
1.2	September 2019	Georgie Harman, CEO	Reviewed by HR, HR Consultant and a Cultural Consultant. Updated in line with legislative changes relating to: <ul style="list-style-type: none"> <li>• Inclusion of applicable legal regulations and legislation.</li> <li>• List of attributes</li> <li>• Definition of sexual harassment</li> <li>• Bullying clause</li> <li>• Reference to grievance procedure and external agencies.</li> </ul> Updates to reflect new Beyond Blue branding.
1.3	August 2021	Georgie Harman, CEO	Reviewed by People & Culture with support from Cornwallis. Key changes/updates include: <ul style="list-style-type: none"> <li>• Updated Policy Statement</li> <li>• Clearer definitions including Sexual Harassment</li> <li>• Alignment to current regulation</li> <li>• Inclusion of Breach Clause</li> <li>• Complaint &amp; support options updated</li> </ul>

1.4	August 2023	Georgie Harman, CEO	<p>Reviewed by People and Culture with support from Cornwalls. Key changes/updates include:</p> <ul style="list-style-type: none"> <li>• Enhancements to the confidentiality section of the specified EEO Procedure.</li> <li>• Removal of the reference to the Victorian Charter of Human Rights and Responsibilities Act 2006 from the “Legal Regulation” section of the Policy on the basis that that Act only applies to Victorian public sector bodies</li> <li>• The inclusion of the following equal opportunity legislation on the basis that since the last update of the policy, Beyond Blue now has employees based outside of Victoria: <ul style="list-style-type: none"> <li>• <i>Anti-Discrimination Act 1977</i> (NSW)</li> <li>• <i>Anti-Discrimination Act 1991</i> (QLD)</li> <li>• <i>Equal Opportunity Act 1984</i> (SA)</li> <li>• <i>Racial Vilification Act 1996</i> (SA)</li> <li>• <i>Equal Opportunity Act 1984</i> (WA)</li> <li>• <i>Anti-Discrimination Act 1998</i> (TAS)</li> <li>• <i>Discrimination Act 1991</i> (ACT)</li> <li>• <i>Anti-discrimination Act 1992</i> (NT)</li> </ul> </li> </ul>
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## 1. Purpose and Scope

The purpose of this policy is to educate employees on positive workplace behaviours that promote equal employment opportunity (EEO) and to set standards for ensuring employees do not engage in behaviours that constitute discrimination, harassment, bullying and victimisation in the workplace. Every person working at Beyond Blue in any capacity is required to comply with this policy. This includes all Beyond Blue employees (fixed term and permanent), volunteers, contractors and consultants and applies during the course of their work:

- In the workplace, including work outside normal working hours
- During work activities, including dealing with external parties
- At work related events, including conferences and social functions.

## 2. Policy Statement

At Beyond Blue, we are committed to ensuring a workplace free from all forms of unacceptable workplace behaviour, including unlawful discrimination, sexual harassment, bullying and victimisation. This commitment is based, in part, on the need to ensure that our organisation complies with relevant state and federal equal opportunity laws. We are also committed to providing a happy, healthy and productive working environment for all employees and encouraging good working relationships between employees.

It is the responsibility of everyone at Beyond Blue to ensure that the workplace is free from unacceptable workplace behaviour and that people are treated with courtesy and respect at all times.

All Beyond Blue employees must ensure that they:

- Are familiar with this EEO Policy
- Comply with the EEO Policy and the laws that regulate discrimination, sexual harassment

and victimisation in the workplace

- Attend Equal Opportunity training as provided by Beyond Blue.

### 3. Legal regulation

Discrimination, harassment, bullying, sexual harassment and victimisation are unacceptable at Beyond Blue and unlawful under Federal, State and Territory legislation, including the following:

- *Fair Work Act 2009* (Cth)
- *Australian Human Rights Commission Act 1986* (Cth)
- *Racial Discrimination Act 1975* (Cth)
- *Sex Discrimination Act 1984* (Cth)
- *Disability Discrimination Act 1992* (Cth)
- *Age Discrimination Act 2004* (Cth)
- *Equal Opportunity Act 2010* (Vic)
- *Racial and Religious Tolerance Act 2001* (Vic)
- *Anti-Discrimination Act 1977* (NSW)
- *Anti-Discrimination Act 1991* (QLD)
- *Equal Opportunity Act 1984* (SA)
- *Racial Vilification Act 1996* (SA)
- *Equal Opportunity Act 1984* (WA)
- *Anti-Discrimination Act 1998* (TAS)
- *Discrimination Act 1991* (ACT)
- *Anti-discrimination Act 1992* (NT)
- *Workplace Injury Rehabilitation and Compensation Act 2013* (Vic)
- *Occupational Health and Safety Act 2004* (Vic)
- *Crimes Act 1958* (Vic).

If unlawful discrimination, bullying or sexual harassment occurs at work, Beyond Blue **and** individual perpetrators can be liable for the conduct. Therefore, ensuring the workplace is free from discrimination, harassment, bullying or sexual harassment is everyone's responsibility.

## 4. Definitions

### 4.1. What is equal employment opportunity (EEO)?

EEO refers to the concept where each individual employee receives an equal opportunity to develop to their full potential within Beyond Blue. This means all employees are treated with fairness in that they are not subject to unlawful discrimination, sexual harassment, bullying or victimisation in the workplace. Moreover, employees should be judged on their merits and not based on irrelevant attributes.

### 4.2. Discrimination

#### a) General

Both State and Federal anti-discrimination legislation prohibit behaviour that amounts to discrimination.

There are two types of unlawful discrimination – direct discrimination and indirect discrimination.

Direct discrimination is generally easier to recognise than indirect discrimination. Direct discrimination occurs when a person treats, or proposes to treat, someone with a protected attribute unfavourably, because of that attribute.

Indirect discrimination can be more difficult to identify. Indirect discrimination is imposing or proposing to impose an unreasonable requirement, condition or practice that has, or is likely to have, the effect of disadvantaging someone with an attribute protected by the law.

Motive is irrelevant and it does not matter if a person did not intend to discriminate against another person.

Equal opportunity laws recognise that not all forms of discrimination are unlawful. Examples of when discrimination may be lawful include:

- An action taken because of the inherent requirements of a role, or due to genuine occupational requirements
- Limiting employment to people with a particular attribute in relation to the provision of services to people with the same attribute and the services are a special measure taken for the purpose of promoting or realising substantive equality for people with the particular attribute
- Discriminating against another person on the basis of disability or physical features if the discrimination is reasonably necessary to protect the health or safety of any person (including the person discriminated against) or the public generally.

## **b) Personal Characteristics or Attributes Protected by Law**

It is against the law to discriminate or treat someone unfavourably in employment (or in the provision of services) because they have, or are assumed to have any of the personal characteristics or attributes listed below:

- Age
- Colour or race, national origin or ethnic background
- Disability, disease or injury
- Employment activity
- Industrial activity
- Lawful sexual activity
- Marital or relationship status, whether married, divorced, unmarried or defacto or same sex relationship
- Parental status or carer status
- Pregnancy or breastfeeding
- Religious beliefs or activity
- Sex
- Sexual orientation, gender identity or intersex status
- Political belief or activity
- Physical features
- Medical record
- Personal association with someone who has or is assumed to have any of the above attributes.

## **c) Example of Unlawful Discrimination**

Examples of discrimination may include:

- Making offensive comments about a co-worker because of their ethnicity or religious beliefs

- Not inviting a co-worker to a work function because of their sexual orientation
- Refusing to appoint a person to a position because of their religious or political beliefs.

### 4.3. Sexual Harassment

Sexual harassment is unlawful under both State and Federal legislation, and is not tolerated at Beyond Blue irrespective of the position or standing of an employee.

Sexual harassment is an unwelcome sexual advance, an unwelcome request for sexual favours, or any other unwelcome conduct of a sexual nature in circumstances where a reasonable person, having regard to all of the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated.

Intention is irrelevant. Sexual harassment is unwelcome, uninvited conduct that is offensive from the view of the person harassed.

It is not mutual attraction between people or friendships.

Sexual harassment can be physical, verbal or written.

Examples of conduct of a sexual nature that may amount to sexual harassment, includes, but is not limited to the following:

- Sexually suggestive behaviour (e.g. leering, gesturing or staring)
- Sexually suggestive comments, remarks, jokes, insults or taunts
- Sexually explicit posts online or on personal or corporate electronic devices
- Non-consensual acts of physical intimacy (e.g. touching, fondling, intercourse)
- Persistent, unwelcome proposals of dating or marriage
- Repeated and/or unwelcome requests for sex/sexual favours
- Inappropriate and/or unwelcome advances online or via phone or email
- Intrusive questions or comments about a person's appearance or private life
- Sharing stories of a sexual nature
- Accessing or displaying offensive, sexually explicit or pornographic sites, photos or images.

Sexual harassment does not need to be a continuous or repeated course of conduct. **A single action of unwelcome sexual behaviour can constitute unlawful sexual harassment.**

Sexual harassment can involve employees, managers, contractors, agents, clients, customers and other connected with or attending a workplace.

It can happen at work, at work-related events, or between colleagues outside the work environment.

Employees should understand that a person's failure to openly (either physically or verbally) object to conduct of a sexual nature at the time it occurs, does not mean they have consented to it. Employees should also understand that some forms of sexual harassment constitute serious offences under criminal law and must be reported to the police. These include indecent exposure, stalking, sexual assault and obscene or threatening communications.

We will respond appropriately to all reported incidents of sexual harassment, irrespective of its degree, whether it was intended or not, or the parties involved.

### 4.4. Victimisation

Victimisation means subjecting or threatening to subject a person to some form of detriment because he or she has made, or intends to make, a complaint under this EEO Policy or is involved in a complaint process under another workplace policy or law.

Examples of conduct that could amount to victimisation, includes, but is not limited to the following type of conduct:

- Excluding or isolating a person because they have lodged a complaint
- Being denied a promotion due to lodging a complaint
- Spreading rumours or gossip about a person because they have made a complaint
- Being dismissed from employment for lodging a complaint
- Being refused further contract work for participating in a workplace investigation.

Victimisation is unlawful and will not be tolerated by Beyond Blue.

## 4.5. Bullying

### a) General

Bullying is a recognised threat to the promotion of a safe and healthy work environment. Every person at Beyond Blue has a responsibility to promote a safe working environment through the elimination or reduction of the risk of exposure to bullying behaviours in the workplace.

Bullying negatively affects individuals and is a known risk factor for mental health problems. Incidents of bullying would also negatively impact the workplace culture at Beyond Blue. Beyond Blue is therefore committed to being a mentally healthy workplace by ensuring that bullying and other factors which may negatively impact on the mental health of our employees are identified and appropriately addressed.

Workplace bullying is defined as **repeated unreasonable behaviour** directed towards an individual or a group of individuals that creates a risk to health and safety.

*Unreasonable behaviour* is behaviour that a reasonable person, having regard to all of the circumstances, would expect to victimise, humiliate, undermine or threaten. Examples of bullying behaviour include:

- Aggressive or intimidating conduct, including verbal abuse/psychological harassment
- Belittling or humiliating comments
- Spreading malicious rumours
- Teasing, practical jokes or 'initiation ceremonies'
- Excluding or isolating the worker, which could include exclusion from work-related events
- Unreasonable work expectations, including too much or too little work, or work below or beyond a worker's skill level
- Deliberately withholding information that is vital for effective work performance
- Displaying offensive material
- Pressure to behave in an inappropriate manner
- Occupational violence, including any actual or threatened violence
- Practical jokes
- Initiation rites
- Offensive voicemails or pictures via text messages, emails or social media forums (for example, Facebook, Instagram and Twitter).

Bullying is not always intentional. Sometimes people do not realise that their behaviour can be harmful to others.

### b) What is not bullying?

Reasonable management action carried out in a reasonable manner does **not** constitute bullying. For

example, the following actions by Beyond Blue do not constitute bullying:

- Setting performance goals and standards
- Fair and constructive feedback
- Genuine and reasonable disciplinary processes
- Constructively delivered feedback or counselling that is intended to assist employees to improve their work performance or the standard of their behaviour
- Fairly rostering and allocating working hours
- Directing and controlling how work is done (a fundamental right of all employers).

A single act, workplace conflict or personality clash will not generally be considered bullying.

## **5. Breach of this Policy**

If an employee breaches this EOO Policy, he or she may be subject to disciplinary action. In serious cases this may include termination of employment. Contractors who are found to have breached this EOO Policy may have their contracts with Beyond Blue terminated or not renewed.

Any Beyond Blue employee who is found to have made a vexatious or malicious complaint under this EEO Policy may also be subject to disciplinary action up to and including termination of employment.

## **6. Authorisation**

Endorsed by the Beyond Blue Board on recommendation of the Audit, Finance and Risk Committee and CEO.

# Equal Employment Opportunity (EEO) Procedures

## 1. Responsibilities

It is the responsibility of the Executive Team to try to ensure that:

- The organisation provides an environment which encourages equal employment opportunity and sets an example by their own behaviour
- All managers, supervisors and staff are aware of their obligations, responsibilities and rights in relation to this policy and the law
- Any matter which does not comply with equal employment opportunity are identified and addressed promptly and sensitively
- Ongoing guidance and training is provided to all employees in relation to equal employment opportunity and this policy and procedure.

It is the responsibility of people Managers to try to ensure that:

- They act as role models for appropriate standards of behaviour
- Employees under their supervision are aware of their obligations under this policy and the law
- They intervene appropriately and promptly when they become aware of inappropriate behaviour
- Wherever possible, assist employees under their supervision to resolve complaints informally
- Any person who raises an issue or makes a complaint is not victimised.

It is the responsibility of all employees, contractors and volunteers to try to ensure that:

- They treat all colleagues with respect and professionalism free from unlawful discrimination, harassment, bullying and victimisation.

## 2. Raising concerns and lodging complaints

If you feel you have experienced or witnessed any of the behaviours addressed by this policy, you should not ignore it. Instead, if you feel comfortable, you may address the issue directly with the person concerned and request they stop engaging in the unacceptable behaviour.

If you understandably do not feel comfortable addressing the matter with the person directly, or if you confront the person and the behaviour continues, you should discuss the matter with your Manager or an EEO Contact Officer (Head of People & Culture or a member of the People and Culture team).

Beyond Blue encourages staff to report any situations in which they feel that they have been subjected to unacceptable workplace behaviour.

If you raise the matter with your Manager or an EEO Contact Officer, you may be asked to put your complaint in writing.

Where necessary, a formal investigation will be undertaken. The function of the investigator is to impartially investigate and help resolve complaints.

The investigator will treat seriously any complaint made in relation to unacceptable workplace behaviour. The investigator will seek to ensure that all complaints are investigated promptly, impartially, and as quickly as practicable.

Your complaint will be kept confidential as far as possible. However, you should be aware that in certain cases Beyond Blue may have a duty to report the matter to others, such as the Police.

Further, the alleged offender will need to be informed of the details of the complaint in order to be able to respond to the allegations. Witnesses may also need to be interviewed. Based on the information collected, a finding will then be made as to whether or not the claim is substantiated.



If Beyond Blue finds that there has been a breach of this policy, Beyond Blue will take appropriate disciplinary action, which may include counselling, training, written warning, or dismissal.

### **3. Confidentiality**

Confidentiality is extremely important in complaints of unlawful discrimination, sexual harassment, bullying or victimisation. Anyone involved in such a complaint, or its investigation, must ensure that the matter is disclosed only to those people who are directly involved in progressing its investigation and resolution, or have a 'need to know'. In particular, it is important that employees who either make a complaint, or may be witnesses to the circumstances giving rise to the complaint, do not discuss the matter outside any investigation and resolution processes.

### **4. External assistance**

Staff members are welcome to complain to or seek advice or assistance from an external agency at any time. For example, you may choose to contact the Australian Human Rights Commission, the Victorian Human Rights and Equal Opportunity Commission, WorkSafe, or the Fair Work Commission.

### **5. Related documents and information**

[Employee Assistance Program \(EAP\).](#)

### **6. Authorisation**

Endorsed by the Beyond Blue Board on recommendation of the Nominations and Remuneration Committee and CEO.