

**JDV** projects.



# Discrimination, Harassment, Vilification and Bullying Policy.

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# Discrimination, Harassment, Vilification and Bullying Policy.

## 1. Policy

- i. JDV Management Pty Ltd. T/A JDV Projects (JDV) aims to have a workplace that is free from discrimination, harassment, vilification and bullying, where employees and sub-contractors (JDV Personnel) are treated fairly and with respect.
- ii. Discrimination, harassment and bullying are against JDV values and can also be unlawful. Applicable legislation and regulations upon which this policy is based are set out at the end of this policy document.
- iii. Dealing with discrimination and harassment claims can lead to:
  - Lower workplace morale.
  - Reduced productivity.
  - Loss of talent, expertise and diversity in the JDV workplace.
  - Management time and legal costs
  - Damage to JDV's reputation and brand.
- iv. This Policy covers how we treat each other and how we treat other people in our workplace including customers and visitors. It applies in our offices and at work related functions like seminars, conferences and social events.
- v. Failure to comply with this Policy may result in legal consequences, including, for a breach that has had or is likely to have, an impact on the business of JDV or any of its staff or clients, dismissal of an employee, according to law.
- vi. Responsibilities under this policy apply to all JDV Personnel, with additional responsibilities applying to JDV managers.

## 2. Purpose

- i. This discrimination, harassment, vilification and bullying policy has three purposes:
  - First, it explains what discrimination, harassment, vilification and bullying are.
  - Secondly, it outlines the responsibilities of JDV, its management and personnel in relation to issues of discrimination, harassment, vilification and bullying.
  - Thirdly, it sets out how you, whether in your capacity as an employee or manager, should deal with an issue or make a complaint.

## 3. What is Discrimination?

- i. Discrimination is any behaviour or practice that makes distinctions between individuals or groups that disadvantages some people or advantages others. Not all discrimination is unlawful, but discrimination on the grounds of sex, sexuality, race or age (and the other grounds set out in point 3.4 below) is unlawful.
- ii. Unlawfully discrimination against another person can take place even if you do not intend to discriminate. In fact unintended discrimination, or perhaps just plain thoughtlessness, may be the most common source of danger in this area. So, it is very important to think about your actions, especially if you are in a position of authority over others.

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- iii. Workplace discrimination can occur at any stage of the employment cycle. For instance, workplace discrimination can occur in recruiting; when offering terms and benefits; when offering workplace opportunities such as training or travel; and when considering transfers, promotions, or dismissals.
- iv. Under both Federal and State or Territory legislation it is unlawful to discriminate against someone on the following grounds:
  - Gender and gender identity, including transgender
  - Age
  - Race, nationality or ethnic or social origin.
  - Disability, including HIV or AIDS status.
  - Family or carers' responsibilities.
  - Parental status or marital status.
  - Medical or irrelevant criminal record.
  - Political views.
  - Pregnancy, potential pregnancy or breastfeeding.
  - Religious beliefs or activity.
  - Sexuality or sexual orientation.
  - Intersex status.
  - Trade union activity
  - Physical Appearance
- v. Discrimination on any of these grounds is unacceptable at JDV, and as noted is unlawful.
- vi. It is important that you are aware that discrimination may be direct or indirect:
  - Direct discrimination is when someone is treated less favourably in their employment due to one of the prohibited grounds set out above. For example, if you don't hire someone because of their age or race.
  - Indirect discrimination is when there is a requirement, condition, policy or rule which appears to be the same for everyone but has an unfair and unreasonable effect on some people because of their gender, race, disability or some other prohibited ground. For example, regularly organising meetings at times when people with carers' responsibilities are unable to attend may be indirectly discriminating against those people.

## 4. What is Harassment?

- i. Harassment is any behaviour which is not asked for and not wanted and that a reasonable person would:
  - Anticipate would offend, humiliate, intimidate or threaten another person; or
  - Consider would make the workplace uncomfortable or hostile for other employees.
- ii. It is not only against company policy but it is against the law to harass someone on the prohibited grounds listed above for unlawful discrimination.
- iii. Harassment is not always intended – acts or behaviour which are funny or don't mean much to one person may hurt or offend another.
- iv. Harassment does not have to be directed at a particular person to be unlawful. Behaviour which creates a hostile working environment for other people can also be unlawful. For example, people overhearing your conversation have a right to complain if they are offended.

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- v. Harassment can be a single incident, a series of incidents, persistent innuendoes or threats. Harassment in the workplace can take many forms. It can be obvious or subtle, direct or indirect (for example, where a hostile feeling/environment is created without any direct attacks being made on a person).

## 5. Types of Harassment

- i. Examples of verbal harassment include:
- Sexual or suggestive remarks.
  - Imitating someone's accent.
  - Unwanted propositions (sexual invitations).
  - Spreading rumours.
  - Obscene telephone calls/unsolicited letters, faxes, email messages, SMS, MMS, or social media posts.
  - Repeated unwelcome invitations.
  - Offensive jokes.
  - Repeated questions about personal life.
  - Threats or insults.
  - The use of language that is not suitable in the workplace.
- ii. Examples of non-verbal harassment include:
- Putting sexually suggestive, offensive or degrading/insulting material on walls, computer screen savers, email and so on.
  - Suggestive behaviour.
  - Unwelcome practical jokes.
  - Displaying or circulating racist cartoons or literature.
  - Mimicking someone with a disability.
  - Following someone home from work.
  - Not sharing information.
  - Offensive hand or body gestures.
  - Unnecessarily leaning over someone.
  - Sending offensive material through computer, fax, email, telephone or via social media sites.
- iii. Examples of physical harassment include:
- Unnecessary physical contact (pinching, patting, brushing up against a person, touching, kissing, hugging, against a person's will).
  - Indecent or sexual assault or attempted assault.
  - Pushing, shoving or jostling.
  - Putting your hand or an object (like a payslip or a wage packet) into someone's pocket (especially breast, hip or back pocket).
- iv. Racial harassment includes:
- Harassing someone because of a person's skin colour, descent, nationality or national origin.
  - Threats, abuse, insults and taunts based on a person's race or characteristics belonging to a particular race.
  - Making racially-based jokes, calling people racial names or making racial slurs and remarks.

## 6. What is Vilification?

- i. Vilification is a very serious breach of the law. It means doing or saying something in public that creates, encourages or incites hatred, severe contempt for or ridicule of other people on the grounds of:
- Their race, ethnic or religious background.
  - Their sexuality.
  - Their AIDS or HIV status.

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- ii. Their gender identity, including being transgender.
- iii. All complaints of vilification are treated seriously, promptly, confidentially and impartially by JDV. Please note that racial vilification in some jurisdictions is a criminal offence.

## 7. What is Bullying?

- i. Bullying is repeated, unreasonable behaviour directed towards an individual or a group that:
  - Victimises, humiliates, intimidates, threatens or demeans a person or group or people.
  - Is unwelcome and uninvited.
  - Creates a risk to health and safety.
  - A reasonable person would think is victimising, humiliating, intimidating, threatening or demeaning.
- ii. A manager is not bullying you when he or she conducts legitimate and reasonable performance counselling in the right forum and in an appropriate manner.
  - Bullying can take many forms:
  - Direct verbal and physical threats.
  - Unfair use of disciplinary and assessment procedures.
  - Blocking of promotion, training, overtime, etc.
  - Setting impossible deadlines and targets.
  - Withholding information essential to do the job properly.
  - Excessively tight supervision.
  - Public humiliation including being shouted at.
  - Persistent and undue criticism including inaccurate accusations about quality of work.
  - Undermining responsibility.
  - Abusive references to age, sex, race, disability or other personal characteristics.
  - Spreading malicious rumours.
  - Physical isolation from other workers.
- iv. Bullying can be carried out in a variety of ways including in person, through email, text messages, Internet chat rooms, instant messaging or other social media channels (cyber bullying).
- v. In some circumstances, JDV can be held liable for any bullying that is related to its employees or to the workplace.

## 8. Employee responsibilities under this policy

- i. As JDV Personnel, you must not discriminate against, harass, bully, victimise or vilify anyone when you are working or at any work-related functions.
- ii. You must understand the meaning of discrimination, harassment and bullying and what this type of behaviour may look like in the workplace and at work-related functions.
- iii. If you witness discrimination, harassment or bullying, don't be silent about it. Raise it with your manager (if appropriate) or report it to HR. (Note, however, that grievances that are found to have been made falsely or maliciously will not be progressed and may result in JDV taking disciplinary action against you.)
- iv. If you become aware that someone you work with is being harassed, help prevent it by offering your support to the person being harassed. You can do this by:

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- Telling him or her that you are willing to act as a witness if the person being harassed decides to lodge a complaint.
  - Refusing to join in with any harassing activity.
  - Backing him or her up or supporting him or her to say no.
- v. It is not your responsibility to say anything to the person who is said to be harassing a person or spread rumours unless, of course, you are the manager responsible for the work group affected. If you participate in spreading rumours you may be subject to legal action.
- vi. In addition to your responsibilities as an employee, as a JDV manager you must also:
- Make sure everyone in your team has read and understood this Policy.
  - Ensure that any concern about discrimination, harassment and/or bullying that is raised with you or that you are aware of is acted on in line with this Policy.
  - Seek assistance or escalate the issue if you need to: speak to a senior manager and/or JDV Human Resources representative.
  - Make sure that privacy is maintained. The identity of anyone involved in a complaint must not be discussed with others except those immediately involved in the complaint or for the purpose of seeking assistance from a senior manager or a JDV Human Resources representative.
- vii. It is important that you are also aware that JDV must take all reasonable steps to prevent discrimination and harassment from occurring in the workplace or in connection with a person's employment otherwise it may be found to be legally responsible for those acts.

## 9. What to do if you are being harassed, discriminated against or bullied

- i. Ask the offender to stop – If you can, tell the person(s) to stop. You should also say that you do not like what is being done and that it is not OK with you or with management.
- ii. Tell someone – If the behaviour does not stop, or if you feel unable to confront the offender/s directly, you should tell your manager if you can. Your manager should take action to prevent further harassment, discrimination or bullying.
- iii. You may also go to JDV HR representative for advice or to lodge a formal internal complaint.
- iv. If your complaint is not properly dealt with by the company, you may wish to take it to an external agency such as the Australian Human Rights Commission.
- v. Record the harassment – Keep a note of any harassment, discrimination or bullying that happens with dates, times, witnesses (if any), what happened and what you said, did or felt.
- vi. Making a formal complaint to JDV – If you decide to make a formal internal complaint, you will need to put your complaint in writing. Send an email to [grievance@jdvgroup.com.au](mailto:grievance@jdvgroup.com.au) (JDV's Grievance Officer) outlining the nature of your complaint. In your email, include as much information about the offensive incident or situation as you can.
- vii. HR will then follow its grievance handling procedures to resolve the complaint. It's important that you maintain confidentiality while the complaint is being resolved. When a solution to the matter has been determined, abide by the terms of the decision.
- viii. JDV would like the opportunity to try to resolve the issue before an external complaint is made. If any JDV Personnel feels discriminated against, harassed or bullied and has told us about it, JDV will aim to act quickly, confidentially (to the extent possible) and professionally to resolve the issue.
- ix. Do not make a false complaint: if we find you have made a false complaint, we may take disciplinary action against you.
- x. Managers: What to do if an employee raises a complaint or issue with you
- xi. As a JDV manager you must:

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- Ensure that you act in line with this policy and consult HR.
  - Advise the employee of the options available to them.
  - Maintain confidentiality about any issue or complaint to the greatest extent possible.
- xii. If the complaint is a false complaint, you may need to counsel the employee and take disciplinary action.

## 10. Contacts

- i. Any individual who has a concern about discrimination, harassment or bullying can access advice that will help them decide how to approach an issue and can raise the issue or make a complaint. JDV Personnel can:
- Speak to their manager (if appropriate) or any other manager.
  - Speak to a the JDV Grievance Officer or any Human Resources department representative.
  - Raise the issue externally by making a complaint to an external body such as the Australian Human Rights Commission.

## 11. Grievance Handling

- i. If you decide to make a formal complaint, the Grievance Officer will:
- Explain this grievance handling procedure to you in the context of your particular circumstances, including what is likely to happen if there is enough evidence to support your complaint and what will happen if there is not enough evidence to support your complaint.
  - Seek sufficient detail from you to ensure that the grievance can be properly considered and investigated.
  - Investigate the complaint, which is likely to include:
    - Talking to the other people involved separately and impartially to hear their version of the story; &
    - Telling you what the other people said and discuss what should be done to resolve the complaint.
- ii. If the complaint is substantiated (that is, it happened), the following may occur:
- An apology maybe made to the innocent party.
  - An official warning may be given to the offending party.
  - Counselling may be organised.
  - Demotion or dismissal may occur in appropriate cases.
- iii. If the complaint is not substantiated (that is, there is not enough proof), the following may occur:
- Further training for staff may be required.
  - A closer watch on the behaviour of employees may be required.
- iv. If the complaint is frivolous or trivial, then the complainant will be asked to apologise. If the complaint is false and malicious, disciplinary action may be taken.

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- v. The Grievance Officer will also:
  - Let you know where you can go if you are not happy with the way that we are dealing with the complaint and other places to go for more information.
  - Enforce action - the Grievance Officer is responsible for ensuring that whatever you have agreed/decided upon actually happens.

Federal Legislation	State & Territory Legislation
Age Discrimination Act 2004	Discrimination Act 1991 (ACT)
Australian Human Rights Commission Act 1996 (Cth)	Anti-Discrimination Act 1977 (NSW)
Crimes Act 1914 (Cth)	Work Health and Safety Act 2011 (NSW)
Disability Discrimination Act 1992 (Cth)	Anti-Discrimination Act 1996 (NT)
Racial Discrimination Act 1975 (Cth)	Anti-Discrimination Act 1991 (QLD)
Sex Discrimination Act 1984 (Cth)	Equal Opportunity Act 1984 (SA)
Work Place Gender Equality Act 2012 (Cth)	Anti-Discrimination Act 1998 (TAS)
Fair Work Act 2009 (Cth)	Crimes Act 1958 (VIC)
	Equal Opportunity Act 1995 (VIC)
	Equal Opportunity Act 1984 (WA)

## 12. Responsibility

- i. The Managing Director is responsible for compliance with this Policy.
- ii. This Policy will be regularly reviewed by senior management to ensure continued effectiveness and improvement.

**Jason De Vos**  
 Managing Director  
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