

Anti-Discrimination and Bullying Policy

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Purpose

GOTAFE is committed to providing a safe, flexible and respectful environment for our employees, contractors, volunteers, students and other stakeholders, free from all forms of discrimination, bullying, sexual harassment, or racial and religious vilification, as far as is possible. GOTAFE aims to provide equal employment opportunity (EEO) in the workplace, where all employees are treated fairly.

All GOTAFE employees, contractors and volunteers (staff) are required to treat others with dignity, courtesy and respect and behave in a manner aligned to the GOTAFE values. GOTAFE is committed to the **Statement of Adherence to Australian Democratic Principles**.

Bullying, vilification, victimisation and cyberbullying are all forbidden under this Policy. They are also unlawful under state and federal legislation. Any breach of this policy will be taken seriously and may lead to disciplinary action, up to and including termination of employment or contract. Examples of possible disciplinary action are set out in the **Issue Resolution and Investigation Procedure** the relevant GOTAFE disciplinary policies and procedures.

This policy provides information and advice on the following:

- Staff members' rights and responsibilities
- Additional responsibilities of Managers and Supervisors
- Merit-based hiring
- Anti-discrimination
- Anti-bullying
- Racial and Religious Vilification
- Victimisation
- Pregnancy
- Breastfeeding

The **Sexual Harassment Policy** provides information and advice on sexual harassment. Please read it in conjunction with this policy.

Application of Policy

This policy applies to all employees, contractors, volunteers and Board members (staff) in the workplace.

'Workplace' includes:

- GOTAFE premises, during or outside business hours;
- Any other place where work is performed by staff of GOTAFE;
- Any other physical or virtual place where work-related activities (including retreats, conferences, GOTAFE-organised social activities) take place;
- Transport used for business purposes; and
- Any other physical or virtual place where the conduct has caused (or is likely to cause) serious damage to the relationship between the relevant staff member and GOTAFE; or damages GOTAFE's interests; or where the conduct is otherwise

incompatible with the duty of a staff member. For example, this may include sexual harassment outside work.

Policy Statement

Equal Employment Opportunity

Equal Employment Opportunity in the workplace (EEO) means that all staff and prospective staff should be treated fairly in relation to recruitment, promotion, benefits and rewards, regardless of any protected attributes they may have (see list below), including gender, race, religion, age, marital status, political affiliation, sexual orientation, or disability. GOTAFE aims to uphold the principles of EEO by providing a workplace that is free of discrimination and our staff are judged on their skills, qualifications and experience, rather than on factors that have no bearing on their work.

Merit Based Hiring

All recruitment and job selection decisions at GOTAFE will be based on merit – the skills and abilities of the candidate as measured against the inherent requirements of the position – regardless of personal characteristics.

It is unacceptable and may be against the law to ask job candidates questions, or to in any other way seek information, about protected personal characteristics (see list below), unless this can be shown to be directly relevant to a genuine requirement of the position.

Anti-Discrimination

Discrimination is treating, or proposing to treat, someone unfavourably because of a personal characteristic protected by the law, such as gender, age, race or disability.

Discrimination can occur:

Directly, when a person or group is treated unfavourably (or it is proposed that they be treated unfavourably) because of a personal characteristic protected by law (see list below).

Indirectly, when an unreasonable requirement, condition or practice is imposed (or proposed to be imposed) that has, or is likely to have, the effect of disadvantaging people with a personal characteristic protected by law (see list below).

Protected personal characteristics include:

- A disability (which is defined broadly and can include a disease or injury, including a work-related injury).
- Parental status, family responsibilities or status as a carer for example because they are responsible for caring for children or other family members.
- Race, colour, descent, nationality or ethnic background.
- Age, whether young or old, or because of age in general.
- Sex.
- Employment activity, for example because they ask questions or raise concerns about their rights or entitlements at work.
- Industrial activity, including being a member of an industrial organisation like a trade union or taking part in industrial activity, or deciding not to join a union.
- Physical features, such as height, weight, size, hair or birthmarks.
- Religious belief or taking part in religious activity, or not holding a religious belief.
- Pregnancy or potential pregnancy, and breastfeeding.
- Lawful sexual activity.

- Sexual orientation, gender identity or gender expression, including gay, lesbian, bisexual, transgender, and heterosexual.
- Marital, relationship or domestic status, whether married, divorced, unmarried or in a de facto relationship.
- Political belief or political activity.
- An expunged homosexual conviction.
- Intersex status.
- Having a carer, assistance, assistance animal or disability aid for a disability.
- An association with someone who has, or is assumed to have, one of these characteristics, such as being the parent of a child with a disability.

It is also against the law to treat someone unfavourably because you assume they have a personal characteristic or may have it at some time in the future.

Anti-Bullying

Workplace bullying is defined as:

“Repeated and unreasonable behaviour directed towards a worker or a group of employees that creates a risk to health and safety.”

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

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

Single incidents of unreasonable behaviour can also present a risk to health and safety and will not be tolerated.

Some examples of workplace bullying are:

- Aggressive and intimidating conduct.
- Belittling or humiliating comments.
- Victimisation.
- Spreading malicious rumours.
- Practical jokes or initiation.
- Exclusion from work-related events.
- Pressure to behave in an inappropriate manner.
- Unreasonable work expectations.
- Cyber bullying

Bullying can be directed downwards (from supervisors/managers to staff), sideways (between staff) or upwards (staff to supervisors/managers).

In assessing whether behaviour is unreasonable, you must consider if an impartial person observing the situation would think it is acceptable to behave that way.

Workplace bullying is **NOT**:

Reasonable management action taken by managers or supervisors to direct and lead the way work is carried out, if the action is taken in a reasonable and lawful way.

The following are examples of what may constitute management action:

- Performance appraisals.
- Ongoing meetings to address underperformance.
- Counselling or disciplining a staff member 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 a staff member permission to return to work due to a medical condition.

“Management Action” can be deemed reasonable if:

- The behaviour is related to the management of the job role.
- It is reasonable for the management action to be taken.
- Is carried out in a manner that is generally reasonable.

That is, the test is whether the management action was reasonable, not whether it could have been undertaken in a manner that was ‘more reasonable’ or ‘more acceptable’.

In general:

- Management actions do not need to be perfect or ideal to be considered reasonable.
- A course of action may still be ‘reasonable action’ even if particular steps are not.
- Any ‘unreasonableness’ must arise from the actual management action in question, rather than the worker’s perception of it.
- Consideration may be given as to whether the management action involved a significant departure from established policies or procedures, and if so, whether the departure was reasonable in the circumstances.

At the very least, to be considered reasonable, the action must be lawful and must not be “irrational, absurd or ridiculous”.

Racial and Religious Vilification

Vilification is behaviour that incites hatred against, serious contempt for, or revulsion or severe ridicule of a person or group of people because of their race or religion.

This includes spoken, written, online or physical behaviour towards a particular race or religious group.

It is also against the law to give permission, request, instruct, induce, encourage or help someone to vilify others, for example by publishing or distributing information about them.

Some behaviour may not be vilification, if it is reasonable and done in good faith, such as publishing a fair and accurate media report about racist behaviour. Some comments or jokes about a person’s race or religion may not be vilification, but they could still be discriminatory if they happen in one of the eight areas of public life covered by the law, such as at work.

Victimisation

Victimisation is against the law. Victimisation is subjecting or threatening to subject someone to a detriment because they have asserted their rights (for example under equal opportunity law, protected disclosure or safety law), made a complaint, helped someone else make a complaint, or refused to do something because to do so would be discrimination, sexual harassment, bullying, vilification or victimisation.

It is also victimisation to threaten someone (such as a witness) who may be involved in investigating an equal opportunity concern or complaint.

Victimisation is a very serious breach of this policy and is likely (depending on the severity and circumstances) to result in formal discipline against the perpetrator.

Breaching the confidentiality of a formal complaint investigation or inappropriately disclosing personal information obtained in a professional role (for example, as a manager) is a serious breach of this policy and may lead to formal discipline.

GOTAFE has a zero-tolerance approach to victimisation. Anyone who believes they have been victimised is strongly encouraged to immediately report the matter to their manager or HR.

Pregnancy

GOTAFE strives to provide a working environment that upholds the principles of equal opportunity in providing a workplace that is free of discrimination, including behaviours that may discriminate against a pregnant job candidate or staff member.

It is unlawful to:

- Fail to interview or recruit a job applicant because of their pregnancy.
- Dismiss or retrench an employee or contractor because of their pregnancy.
- Transfer a pregnant employee or contractor to a lower paid job or deny promotion because of their pregnancy.
- In any way treat them less favourably than others because of their pregnancy or denying them a benefit of employment/engagement or subjecting them to any detriment because of their pregnancy.

Employees on parental leave must be treated much the same way as if they were at the workplace. For instance, they would receive copies of newsletters; general correspondence given to all employees; advice of job vacancies; advice of relevant training programs.

A pregnant employee may request a change of duties based on medical advice, and such a request will be considered in light of GOTAFE's occupational, health and safety and equal opportunity obligations. This may require consultation with an employee's treating doctor.

Breast-feeding

GOTAFE strives to provide a working environment that upholds the principles of equal opportunity in providing a workplace that is free of discrimination, including behaviours that may discriminate against a job candidate, employee or contractor that requires consideration due to breast-feeding responsibilities.

The right of people to breastfeed in many areas of public life without discrimination is enshrined in law. That means breastfeeding is permitted at work (for employees and contractors, and in some cases volunteers), at public venues, in shops and on public transport (among other places).

In so far as is reasonably practical, GOTAFE shall do all it can to accommodate a Staff member's wish to express breast milk, such as:

- Being flexible with when and how long is taken for breaks (e.g. institute a time-in-lieu system for the employee or contractor)
- Arrange for a private office where the employee or contractor can safely and with privacy express breast milk
- Ensure that other staff do not discriminate against the employee or contractor because of pregnancy or breast feeding.

Roles and Responsibilities

This policy applies to:

- How GOTAFE provides services to customers and how it interacts with other members of the public;
- All aspects of employment, recruitment and selection; conditions and benefits; training and promotion; task allocation; shifts; hours; leave arrangements; workload; equipment and transport;
- On-site, off-site or after hours work (including work online); work-related social functions or activities; conferences – wherever and whenever employees may be as a result of their GOTAFE duties; transport used for business purposes; any other physical or virtual place where the conduct has caused (or is likely to cause) serious

damage to the relationship between the relevant staff member and GOTAFE; or damages GOTAFE's interests; or where the conduct is otherwise incompatible with the duty of a staff member. For example this may include bullying outside work; and

- Employee's interaction with other employees, clients and other members of the public encountered in the course of their duties.

Staff Rights and Responsibilities

GOTAFE recognises that unlawful discrimination, bullying, vilification and victimisation are inappropriate and unlawful. Such conduct may also constitute criminal conduct. GOTAFE will not tolerate such behaviours and considers such behaviours to be an occupational health and safety issue.

All staff must:

- Follow the standards of behaviour outlined in this policy. In particular, staff must not unlawfully discriminate, bully, vilify or victimise.
- Offer support to people who experience discrimination, bullying, victimisation or vilification, including providing information about how to raise an issue.
- Avoid gossip and respect the confidentiality requirement of the issue resolution/investigation procedures.
- Treat one another with dignity, courtesy and respect.

All staff are encouraged to:

- address inappropriate behaviour if comfortable and safe to do so,
- raise any concerns about inappropriate behaviour to People and Culture. This includes any concerning behaviour observed, not just experienced.

Additional responsibilities of Managers and Supervisors

Managers and supervisors must also:

- Model appropriate standards of behaviour.
- Take steps to educate and make staff aware of their obligations under this policy and the law.
- Intervene quickly and effectively when they become aware of inappropriate behaviour.
- Act fairly to resolve issues and enforce workplace behavioural standards, making sure relevant parties are heard.
- Help staff resolve complaints informally or formally.
- Conduct formal investigations about breaches of this policy via the issue resolution/investigation procedure.
- Ensure staff who raise an issue or make a complaint are not victimised.
- Ensure that recruitment decisions are based on merit and that no discriminatory requests for information are made.
- Seriously consider requests for flexible work arrangements.

Third parties are also expected to behave in a professional, safe and inclusive manner when interacting with staff. 'Third parties' includes students, suppliers or any other third party that a GOTAFE staff member interacts with whilst performing duties for GOTAFE.

Grievances

Any staff member may raise a grievance alleging a breach of this policy. The procedure for raising a grievance is set out in the **Issue Resolution and Investigation Procedure**.

Documentation and regulation

- Sexual Harassment policy
- Issue resolution and investigation procedure
- Statement of Adherence to Australian Democratic Principles
- Termination of Employment Procedure
- Discipline Policy for PACCT
- Discipline Procedure for PACCT
- Discipline Policy for Employees other than PACCT staff
- Discipline Procedure for Employees other than PACCT staff