

BULLYING & HARASSMENT POLICY – June 2016

INTRODUCTION

The Online Lab is committed to providing a safe, secure and supportive online environment where the creative and interpersonal aims of the program can be achieved. That environment should be free of harassment, bullying or discriminatory behavior. This policy aims to outline the framework within which these behaviours can be identified and resolved to the satisfaction of all stakeholders in the Online Lab.

Scope: This policy applies to all Online Lab Organisers, Mentors and Participants.

Policy

The Online Lab is committed to providing an environment free of all forms of discrimination and harassment, including sexual harassment and bullying. It aims for equality of opportunity for all Online Lab participants and staff.

Background

This policy is intended to ensure that there is a shared understanding of the Online Lab expectations in regards to acceptable and appropriate behaviour within the Online Lab environment.

Discrimination and Harassment is not only unacceptable, it is unlawful pursuant to State and Federal legislation. Bullying is unacceptable and may also be unlawful.

It is the primary responsibility of the Online Lab to provide a collaborative environment free from discrimination, harassment and bullying. It is the responsibility of every Online Lab personnel to not participate in discriminatory or harassing behaviour within the online environment.

The Online Lab Organiser/Moderator will treat all complaints confidentially, seriously and sympathetically. Appropriate disciplinary action may be taken against anyone found to have breached this policy.

No personnel will be penalised or disadvantaged as a result of raising legitimate concerns or complaints relating to discrimination, harassment or bullying.

Definitions:

Discrimination

Unlawful discrimination occurs when a person treats or proposes to treat another person less favourably owing to an attribute (listed below) when compared with a person without that attribute.

Unlawful discrimination also occurs when there is a requirement or condition or practice that is the same for everyone but disadvantages a person because they have one or more of the following protected attributes.

Protected attributes in Victoria include:

- Age;
- Colour
- Descent or national or ethnic origin;
- Disability/impairment;
- Industrial activity/inactivity;
- Lawful sexual activity/sexual orientation or preference;
- Gender identity;
- Marital status, including de facto;
- Physical features;
- Political belief or activity;
- Pregnancy/breastfeeding;

- Race;
- Religious belief or activity;
- Sex;
- Status as a parent or carer;
- Personal association with someone of the above attributes;
- Irrelevant criminal conviction (one that does not relate to an inherent requirement of the role).

Workplace discrimination can occur in:

- The provision of support to Online Lab participants or staff,
- Recruiting and selecting Staff;
- Terms, conditions and benefits offered as part of employment;
- Who receives training and what sort of training is offered;
- Who is considered and selected for transfer, promotion, retrenchment or dismissal.

It is important to note that from a legal perspective it is irrelevant whether or not the discrimination was intended.

Harassment

A person unlawfully harasses another person if he or she makes that other feel offended, humiliated or intimidated because of one of the protected attributes listed above. It may involve inappropriate actions, behaviour, comments or physical contact that is objectionable or causes offence.

It is important to note that from a legal perspective it is irrelevant whether or not the harassing behaviour was intended.

Unlawful harassment may have occurred if the behaviour makes the victim feel:

- Offended and humiliated;
- Intimidated or frightened and/or
- Uncomfortable at work

Unlawful harassment can include behaviour such as:

- Telling insulting jokes about particular racial groups;
- Sending explicit or sexually suggestive emails;
- Displaying offensive or pornographic posters or screen savers;
- Making derogatory comments or taunts about someone's race or religion;
- Asking intrusive questions about someone's personal life, including their sex life.

Sexual Harassment

Sexual harassment occurs when a person makes an unwelcome sexual advance, or an unwelcome request for sexual favours to another person, or engages in any other unwelcome conduct of a sexual nature in relation to another person, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated. It has nothing to do with mutual attraction or consenting friendships, whether sexual or otherwise.

Sexual harassment is unlawful in the workplace, which includes any place a person goes for the purpose of carrying out any function in relation to his/her role at the Online Lab. The workplace can also extend to social functions.

In Victoria, co-workers can be named sole respondents in cases of alleged sexual harassment.

Some examples of sexual harassment include:

- Persistent, unwelcome demands or even subtle pressures for sexual favours or outings;
- Staring or leering at a person or at parts of their body;
- Unwelcome patting, pinching, touching or unnecessary familiarity, such as unnecessarily brushing up against a person;

- Offensive comments or questions about a person's physical appearance, dress or private life;
- Sexually explicit pictures or posters or screen savers (words and images);
- Sexually explicit telephone calls, letters, faxes, emails or voice mail messages;
- Humour such as smutty or suggestive jokes or comments;
- Innuendo, including sexually provocative remarks, suggestive or derogatory comments about a person's physical appearance, inferences of sexual morality, or tales of sexual performance;
- Requests for sex;
- Insults or taunts based on sex;
- Sexually explicit physical contact.
- Some types of sexual harassment can also be offences under the criminal law, such as:
- Physical molestation or assault;
- Indecent exposure;
- Sexual assault;
- Stalking;
- Obscene communications (by way of online posts, telephone calls, emails etc.).

Bullying

Workplace bullying is repeated, unreasonable behaviour directed toward personnel, or groups of personnel, that creates a risk to their safe engagement with online activity or sense of personal well-being.

"Unreasonable behaviour" means behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten the other person.

"Behaviour" includes actions of individuals or a group, and may involve using a system of work as a means of victimising, humiliating, undermining, punishing or threatening.

"Risk to health and safety" includes risk to the mental or physical health of personnel.

The following types of behaviour, where repeated or occurring as part of a pattern of behaviour could be considered to be workplace bullying:

- Simulated physical or verbal abuse;
- Intimidation;
- Yelling, screaming or offensive language;
- Excluding or isolating participants or Mentors;
- Psychological harassment;
- Assigning meaningless tasks unrelated to the current activity;
- Directing impossible jobs;
- Deliberately changed session times to inconvenience particular persons;
- Undermining work performance by deliberately withholding information vital for effective work performance.

Other types of behaviour may also constitute bullying.

Workplace bullying can occur between Participants, Mentors or an Organiser/Moderator.

Bullying is not an acceptable part of the Online Lab activity culture. It is a significant occupational health and safety issue of concern if it occurs in the online environment or the working environment, as it can cause harm to a person's health and wellbeing, both physical and psychological. Bullying may also be unlawful if it is linked to, or based on, one of the above-specified protected attributes covered by anti-discrimination legislation.

Bullying does not cover situations where an employee has a grievance about legitimate and reasonable:

- Performance management processes;
- Disciplinary action;
- Allocation of work in compliance with systems.

Victimisation

It is unlawful for a person to subject to or threatens to subject another person to any detriment because the other person, or someone associated with the other person, has made an allegation or complaint of discrimination, harassment or bullying on the basis of a protected attribute.

Resolution of Complaints and Issues of Concern

It is in the interest of any person or group who believe they have been unlawfully discriminated against, sexually harassed, bullied or victimised to take action to prevent the behaviour from recurring. The Online Lab believes that all complaints and issues of concern should be resolved quickly, confidentially and wherever possible, at the lowest appropriate level. A range of internal issue resolution options are available including:

- Self-resolution;
- Non-report early resolution by immediate action of the Online Lab Organiser or Moderator;
- Informal resolution involving mediation and conciliation;
- Formal investigation/assessment by the Online Lab Organiser or external provider.

What can you do if you are being harassed or bullied?

Bullying and harassment is to be dealt with and should not be ignored, as ignoring the behaviour could be taken as tacit consent. Anybody who experiences or witnesses harassment or bullying is encouraged to either:

- Inform the offender that the behaviour is offensive and unacceptable and against organisational policy; or
- Seek assistance in having the behaviour stopped. This may include reporting the issue to the Online Lab Organiser or Moderator.

Who can assist you in making a report or complaint?

If you feel that you are unable to resolve the matter yourself, the following people will be able to assist you:

- The Online Lab Organiser or Moderator.

In addition to the above listed person, you may approach the Equal Opportunity Commission for independent advice at any time.

What will happen if you make a Report or Complaint?

Any complaints or reports of discrimination, harassment or bullying will be treated quickly, seriously and sympathetically. They will be investigated thoroughly, impartially and where possible, confidentially (when investigating some complaints confidentially is not always possible). The Online Lab Organiser or Moderator must act immediately on any reports of harassment. Personnel will not be disadvantaged in their engagement conditions or opportunities as a result of lodging a complaint.

What will happen to the person against whom you have made a complaint?

The Online Lab considers all forms of workplace discrimination, harassment and bullying to be unacceptable behaviour, which will not be tolerated. Accordingly, where such complaints have been substantiated, appropriate disciplinary action will be taken. Such action may range, based on severity of the complaint, from a formal warning to termination of relationship with the Online Lab for serious breaches of this policy.

Similarly, where necessary, action will be taken against anyone including Participants or Mentors who have been found to have discriminated against, harassed or bullied a co-worker, or any other person during the course of his/her engagement with the Online Lab.

Natural Justice

A complaint of discrimination, harassment and/or bullying is a serious allegation to bring against someone. For this reason, while advisers may have feelings of sympathy for the complainant, and quite possibly negative feelings towards the respondent when dealing with a complaint, it is crucial to continually bear in mind the rights of the respondent as determined by the principles of natural justice. The adviser must approach the problem with neutrality.

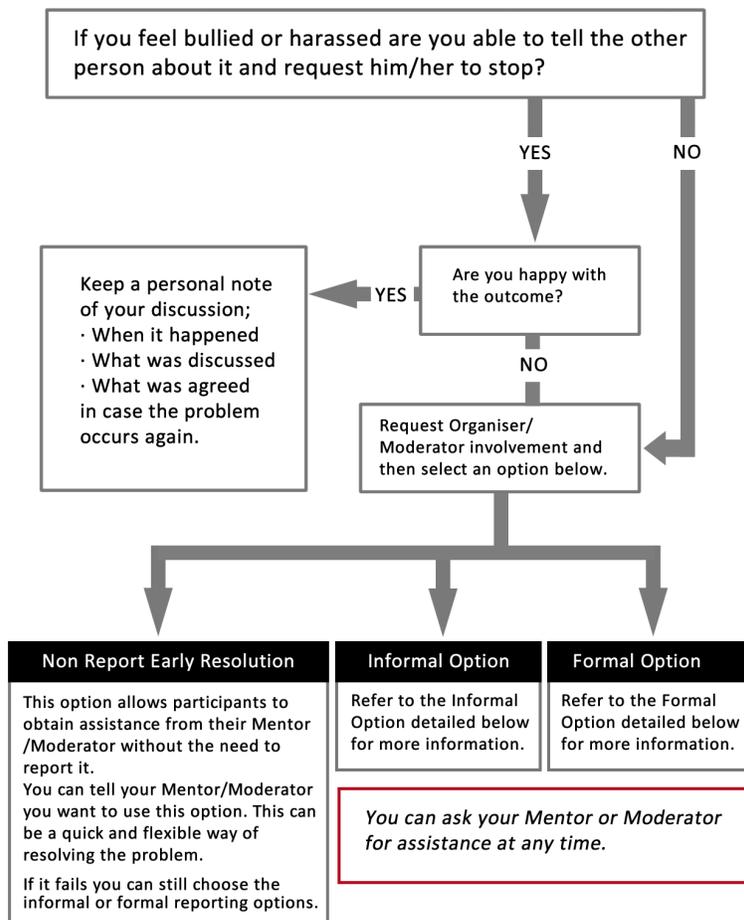
Defamation

A person should not be deterred from making a complaint of harassment by concerns about defamation laws. Generally if a complainant only discusses the complaint with appropriate people (Moderator/Organiser) and is acting in good faith (i.e. is not making complaint out of spite or malice), then the person will not be liable for defamation.

Flowcharts for Resolution

All complaints of bullying and harassment will be responded to in accordance with the procedures outlined in Schedule 1 below.

Schedule 1- Bullying Resolution Flowchart



Non-Report Early Resolution

The non-report early resolution option has been created to allow personnel to obtain assistance from the Organiser/Moderator about a bullying or harassment issue without having to report it.

Non-report early resolution is confidential, quick and flexible course of action by which the Organiser/Moderator and the parties themselves choose a method of solution to assist in an amicable solution. This may include any or all of the following:

- An early apology
- Referring the parties to counselling, training or education
- Programs
- Meetings
- Discussions

Informal Action Option

This option means that there is no investigation into the report and there is no decision made on whether bullying or harassment has occurred. The emphasis is on resolution only.

Where the informal option is sought the Mentor/Participant reports the matter verbally to the Organiser/Moderator. Both the Mentor/Participant and other party can ask the Organiser/Moderator for support, if they wish.

The Organiser/Moderator assists in resolution of the matter by using the following methods:

- Proposing solution such as an early apology
- Facilitating a meeting between the parties
- Providing training in appropriate behaviour
- Provide supervision and support
- Other suitable dispute resolution strategies
- Personnel can cease informal option at any time or proceed with formal option.

Formal Option

Where a formal action is commenced the employee/volunteer completes a Bullying and/or Harassment Report Form and delivers it to the Organiser/Moderator.

Conclusion

The Online Lab is committed to providing an environment that is safe and free of discrimination, harassment and bullying for all personnel and others with whom we associate at the Online Lab. This policy has the full support and commitment of management. Please ensure you give your support in monitoring and avoiding practices, attitudes and traditions that lead to harassment.