

Prevention of Sexual Harassment and Discrimination

Policy Details

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Purpose

To provide an environment within Rise free of discrimination and sexual harassment and to establish a clearly defined procedure for investigating complaints of discrimination and sexual harassment.

The purpose is to prevent behaviours involving discrimination and sexual harassment. These behaviours pose a risk of injury or harm to staff and will not be tolerated.

This policy applies to all Rise staff and contractors.

Definitions

Direct discrimination

Direct discrimination takes place when a person is treated less favourably than another person, in the same or similar circumstances, on one or more of the grounds and in one of the areas of public life covered by the *Equal Opportunity Act 1984 (WA)*. For example, an employer has a promotion policy that excludes pregnant employees for consideration.

Indirect discrimination

Indirect discrimination happens when an apparently neutral rule has a negative effect on a substantially higher proportion of people with a particular attribute or characteristic (e.g., race) compared to people without that attribute or characteristic, and the rule is unreasonable in the circumstances. For example, an employer imposes a height restriction on all applicants for the position of "Care Worker", that is, an applicant must be over 185cm (6 feet) tall to be successfully considered for the position. This requirement at first glance appears fair because it applies to all applicants irrespective of gender. However, in practice this requirement will disadvantage women as a group because statistically, women are shorter than men. So, the effect is to disadvantage women because of their sex.

Grounds of discrimination and harassment

The *Equal Opportunity Act 1984 (WA)* and the *Sex Discrimination Act 1984 (Cth)* set out the types or grounds of discrimination and harassment which are unlawful. These are:

- Age – being regarded as too young or old*
- Family responsibility – having a caring role
- Family status (marital or relationship status) – being a relative of a particular person or having the status of being a relative
- Gender history – having a reassigned gender as under the Gender Reassignment Act 2000 or identifying as a member of the opposite sex by living, or seeking to live, as a member of the opposite sex.
- Gender identity – an individual's personal sense of how they perceive themselves
- Impairment – having a current, past, or assumed physical, intellectual, or mental disability*
- Marital status or relationship status – being single, married, de facto, separated, divorced, or widowed

- Political conviction – including a lack of conviction
- Pregnancy or potential pregnancy
- Race – including colour, ethnicity or national origin or descent*
- Racial harassment
- Religious conviction – including a lack of conviction
- Sex
- Sexual harassment
- Sexual orientation - including heterosexuality, homosexuality, lesbianism, bisexuality, or other sexual orientation*
- Intersex status – born with physical characteristics that don't fit the usual definition of a male or female body
- Breastfeeding – or bottle feeding
- Publication of relevant details of persons on the Fines Enforcement Registrar's website

* Includes discrimination on the ground that a relative or associate has this attribute

There are some instances where it is not unlawful to discriminate against a person and an exception is provided in the *Equal Opportunity Act*. Examples include:

- measures intended to achieve equality (e.g., where a position is advertised for persons of a particular group or nationality to apply)
- a genuine occupational qualification (e.g., where a position is advertised with an essential criterion that requires a person of a particular group or nationality to perform the functions of the position).

The *Equal Opportunity Act* also covers functions or interactions between work colleagues that occur out of working hours if there is sufficient connection with the employment, for example an office party, business travel and accommodation, or use of a work-related facility such as a computer or mobile phone.

Sexual Harassment

Sexual harassment is any unwanted or unwelcome sexual behaviour, which makes a person feel offended, humiliated, or intimidated. Sexual harassment does not need to be repeated or continuous; it can involve a single incident.

Sexual harassment is not interaction, flirtation or friendship which is mutual or consensual.

Some forms of sexual harassment or physical assault and/or stalking are illegal under criminal Sex Discrimination Act 1984 (Commonwealth) and may result in criminal prosecution.

Sexual harassment can take numerous forms including but not limited to:

- unwelcome physical touching, hugging, or kissing
- staring or leering at someone, or at parts of their body
- suggestive comments or jokes
- insults or taunts based on sex
- sexually explicit pictures, e-mails, or text messages
- intrusive questions about an employee's private life or body.

Vilification

To make vicious and defamatory statements about another person.

Policy

Rise considers workplace discrimination, vilification, and sexual harassment unacceptable and will not tolerate it under any circumstances.

Sexually harassing or discriminatory behaviour towards another person is unlawful and a breach of the behaviour prescribed in the Equal Opportunity Act 1984 (WA), Sex Discrimination Act 1984 (Cth) and Work Health and Safety Act 2020 (WA).

All staff have a responsibility to ensure that they do not promote or engage in sexually harassing or discriminatory behaviour and are encouraged to seek advice and report any incidents of such behaviour so that a process of resolution can be initiated. Rise could be held vicariously liable for the sexual harassment of its staff.

All complaints will be treated seriously and confidentially with the appropriate support and action taken to resolve the offending behaviour. The victimisation of people making complaints is unlawful and will not be tolerated.

Any person who causes, instructs, induces, aids, or knowingly permits another person to engage in sexual harassment or discrimination in the workplace shall be deemed to have committed the act and shall be treated accordingly.

Line Managers are responsible for:

- promoting a workplace where employment practices and decision-making processes are free of bias and unlawful discrimination against employees, potential staff, contractors, or clients
- ensuring their staff are aware of this policy and have mechanisms to deal with sexual harassment or discriminatory behaviour
- promptly managing any incidents of sexual harassment or discrimination as a matter of priority

Procedure

Complaints handling and grievance procedure

A complaint of sexual harassment or discrimination may be lodged using the Grievance Policy.

Breaches

Breaches of policy are serious and may result in disciplinary action up to and including termination of employment.

Cross reference to relevant policy

[Whistle blower Policy](#)

[Staff Grievance and Dispute Resolution Policy](#)

[Managing Performance Policy](#)

[Equal Employment Opportunities Policy](#)

Forms pertaining to this policy are/location

N/A

Reference documents

Equal Opportunity Act 1984 (WA)

Sex Discrimination Act 1984 (Cth)

Work Health and Safety Act 2020 (WA)