



HR Harassment and Bullying

Overview

The Taillem Bend Community Centre Incorporated (TBCC) regards the dignity and autonomy of all people as a core value of the organisation. Harassment and bullying behaviour is based on the misuse of power in human relationships, and negates the dignity and autonomy of its victims.

TBCC regards the health and safety of its staff, board, contractors, volunteers, members and users as a primary responsibility and is fully committed to eliminating, as far as possible, all forms of bullying and harassment in the workplace and in its relationships with its clients through a culture of openness, support and accountability.

This policy outlines the procedure for addressing complaints of harassment or bullying, according to TBCC Grievance, Feedback and Complaints Policies and Procedures. It applies to all conduct in work-related contexts, including conferences, social events and business trips, and includes face-to-face and online harassment and bullying.

The TBCC Chief Executive Officer (CEO) is responsible for the implementation and ongoing review of this procedure.

Definitions

Unreasonable behaviour: is behaviour that is offensive, humiliating, intimidating, degrading or threatening. It includes, but is not limited to:

- verbal abuse
- initiation pranks
- excluding or isolating employees
- giving a person the majority of an unpleasant or meaningless task
- humiliation through sarcasm, or belittling someone's opinions
- constant criticism or insults
- spreading misinformation or malicious rumours
- deliberately setting work routines or procedures to inconvenience certain employees
- displaying written or pictorial material which may degrade or offend certain employees
- a pattern of unjustified criticism that is targeted at individuals or groups

Bullying: is repeated, unreasonable behaviour directed towards a person or group of persons. Bullying includes behaviour that could be expected to intimidate, offend, degrade, humiliate, undermine or threaten. Bullying can occur face to face, or using digital communication channels such as online, email, and social media (cyber bullying).

Harassment: is uninvited, unwelcome behaviour that does not have any legitimate workplace function. Harassment includes any written, physical and verbal conduct that from the perspective of a reasonable person is intimidating, offensive or humiliating against another person. Harassment is any behaviour which is not asked for and not wanted and which occurs because of, for example, a person's sex, race, religion, age, pregnancy, marital status, disability, transgender (transsexual) status or sexuality.

Harassment can include:

- making fun of someone, imitating someone's accent, spreading rumours, unwelcome practical jokes

- obscene or unsolicited telephone calls, letters, faxes or email messages, including to people outside of the workplace such as intimate partners or ex-partners
- invasion of personal space, unnecessary physical contact
- continually ignoring or dismissing someone's contribution in a meeting/discussion
- pushing, shoving or jostling or assault
- threats, insults, name calling, inappropriate language
- creating a hostile feeling or environment without any direct attacks being made on a person

Sex-based harassment: A form of sex discrimination which consists of unwanted sexually-related behaviour which has the effect of offending, humiliating or intimidating another person, It can include:

- sexual or physical contact
- sexual or suggestive remarks or gestures
- staring, leering in a sexual manner
- displaying or circulating sexually suggestive, offensive or degrading/insulting material on walls, computer screen savers, email,
- unwanted romantic advances by colleagues using social media
- referring to a transgender person by their previous name or gender
- intrusive questions or statements about a person's private life

Complaint process

TBCC will support any employee, contractor, or volunteer who feels they have been bullied, harassed, or have witnessed bullying/harassment taking place, to take action by making it clear that such behaviour is unwelcome, offensive and potentially illegal. Throughout this process, complainants will be safeguarded from any potential negative impacts of reporting. All supervisors and managers will provide support to any staff member who claims to have experienced workplace bullying or harassment and to the individual against whom an allegation has been made.

Complaints will be dealt with according to TBCC Grievance, Feedback and Complaints Policy, Strategy and Procedure as follows, and according to the principles of procedural fairness:

Self Help	<p>What to do</p> <p>Step 1 If you can, try to resolve the problem yourself with the person or people involved. Discuss the matter with the involved party prior to lodging a formal complaint, if they feel confident enough to do so. You may find that they didn't mean to do what they did, and once aware of it that they do not do it again.</p>
Informal	<p>Step 2 Talk to a contact person in confidence if you:</p> <ul style="list-style-type: none"> • are not sure how to handle the problem yourself, or • want to talk confidentially about the problem with someone and get some more information about what you can do. • Unsure whether the behaviour witnessed or participated in constitutes workplace bullying or harassment, discuss the matter with the TBCC CEO or Executive Board Member.
Formal (within)	<p>Step 3 Make a formal written complaint.</p> <ul style="list-style-type: none"> • If the complaint cannot be resolved informally, the complainant should provide written details (Incident Report) of their concerns and the nature of the complaint

	<p>to the TBCC CEO. You will need to provide exact details of your allegations. This will lead to an investigation within the organization as follows.</p> <ul style="list-style-type: none"> • Review the information received from you about the person/people you're complaining about and get both sides of the incident. • Speak to witnesses very carefully, so as not to breach confidentiality. They will speak to only as many witnesses as necessary. • Determine on this basis whether they have enough information to know if the matter(s) alleged in the complaint did or did not happen. • Work out whether the matter(s) alleged in your complaint are serious enough to warrant disciplinary action. • Attempt to mediate between the people in dispute. This may mean that you and the other person or people involved come to a mutually satisfactory agreement about how the complaint should be resolved.
Formal (outside)	<p>Step 4</p> <ul style="list-style-type: none"> • If the matter involves the employee/volunteer's supervisor, the complainant may discuss the issue directly with an Executive Member of the Board of Management • If appropriate, an external investigator may be sought out to examine the case. • The TBCC CEO will initiate an informal meeting with the complainant to discuss the complaint and come to a full understanding of it.
Advocacy	<p>Step 5 If you are still unhappy, you can get advice from any relevant external agency—for example:</p> <ul style="list-style-type: none"> • the Equal Opportunity Commission • the Human Rights and Equal Opportunity Commission • Your Union • Working Women's Centre – for women not in a union.
Reporting	<p>Step 6 Reporting</p> <ul style="list-style-type: none"> • On completion of the investigation, the TBCC CEO will provide a report which documents the course of action to be taken, and any review processes recommended.

Remedial Action

If appropriate, the TBCC CEO or Board may decide whether you or the person/people you are complaining about should be removed from duty or given a changed roster until the complaint can be investigated and resolved and if so, which party (but only where doing so could not be seen to be prejudging the matter).

Possible course of actions may include, but not be limited to, any combination of the following:

- counselling
- disciplinary action against the harasser (e.g. demotion, transfer, suspension, probation or dismissal)
- official warnings that are noted in the harasser's personnel file
- disciplinary action if there is strong evidence that the complaint was vexatious or malicious
- formal apologies and an undertaking that the behaviour will cease

- conciliation/mediation conducted by an impartial third party where the parties to the complaint agree to a mutually acceptable resolution
- reimbursing costs associated with the bullying or harassment
- re-crediting any leave taken as a result of the discrimination or harassment

Written documents produced as part of the dispute should be held on a confidential file by the supervisor for a period of twelve (12) months and destroyed if no further conflicts arise.

If the complainant is not happy with the outcome of the grievance process, or at any time throughout the complaint process, they may seek advice or make a complaint with the [Human Rights Commission](#).

Confidentiality

- Only people directly involved in a complaint, or in resolving it, can have access to information about it.
- Everyone involved in resolving a complaint will be told about the importance of confidentiality.
- Information will be kept securely and will only go on an employee's file if they are disciplined as part of the complaint resolution.

Fairness/impartiality

- Both sides will get a chance to tell their side of the story. Both sides have the right to be treated fairly, and to have the complaint decided by someone who acts fairly and in good faith.
- No one will make any assumptions or take any action until all relevant information has been collected and considered. Any person who has been complained about has a right to know details of any allegations against them.
- Both sides will have access to support or representation if they want or need it.
- Formal complaints must be substantiated before disciplinary action is taken.
- We will investigate all allegations before making a decision 'on the balance of probabilities'. This means that we will find a complaint substantiated and take action if we believe, on the basis of the available evidence, that it is more likely than not that the allegations happened.
- Right to appeal: A person who uses this procedure can appeal against a decision that they are unhappy with.

Protection against unfair repercussions or victimisation

- Management must take all necessary steps to make sure that people involved in a complaint are not victimised by anyone for coming forward with the complaint, or for helping to resolve it.
- Any victimisation will be disciplined. Anyone who uses this complaint procedure maliciously or in bad faith (e.g. to lie about someone) can be disciplined. If we decide that we need to take disciplinary action against someone for breaching any of our policies or standards, then we will do so. We will aim to do this fairly and consistently.

Management must act to protect others

- In some cases where management observes inappropriate behaviour they may need to act in order to 'nip problems in the bud'. This may require taking action before matters get worse and to avoid a formal complaint being made.

How may complaints be resolved?

Agreement

As explained above, many complaints can be settled by agreement between the people involved.

Not enough evidence to act

If there is not enough evidence to decide whether or not the matter(s) alleged happened, no disciplinary action will be taken. Instead, we may decide to:

- keep a closer watch on the people involved
- consider wider staff education or training on the particular policy or standard involved.
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Documentation

No records or notes will go on anyone's file. The Contact Person will write a confidential file note summarising your discussions and the action agreed on. The person who handled the complaint will write a confidential report. This report will be filed in a confidential complaint filing system. Only the TBCC CEO or Chairperson will have access to this, and only when necessary.

Disciplinary action

If the person handling the complaint decides that there has been a breach of one of the Centre's policies or standards we may discipline the person or people responsible for the breach. If a complaint is made mischievously (for example, it consists of lies), disciplinary action may be taken. Making untrue allegations about someone else could also lead to legal action for defamation (damage to reputation). If the person (or people) complained about is found to have committed a breach of one of our policies or standards, they can be disciplined.

Level of disciplinary action

The level of discipline will depend on:

- the seriousness of the breach
- whether it was done intentionally or maliciously
- whether there have been previous official warnings about this type of breach given to the person/people involved
- whether there are any circumstances (known as mitigating circumstances) that mean disciplinary action should not be taken or serious disciplinary action should not be taken.

Range of disciplinary action

Discipline could involve one or more of the following:

- a written apology
- counselling
- an official warning
- dismissal.

A record of the complaint and the resulting disciplinary action will be placed on the personnel file of anyone who is disciplined. The complaint handler(s) will also send all their notes and a copy of the record of the complaint to the person in charge of the confidential complaint filing system located in the main office.

How does an appeal work?

The person who handles an appeal will be higher up in the organisation than the person who first handled the complaint. They will generally rehear the complaint. This means they may go through the same steps as the person who originally handled the complaint. They may also decide to interview more witnesses if they think those extra witnesses will be able to help.

What may happen?

The person who handles the appeal may confirm the original decision or overturn it. If they believe any contact officer or the original complaint handler mishandled the complaint in a way that breaches this complaint procedure, they may recommend disciplinary action against that person.

Who else can help?

At any time anyone involved in a complaint can get legal advice from a union representative or legal representative. It is possible to bring a union or legal representative to any complaint meeting.

Confidential support and information is available from any of the contact officers at any time during the complaint handling process. This is available to the person making the complaint and the person/people the complaint is about. However, the same contact officer will not be able to assist both parties involved in the complaint.

A person making a complaint has the right to contact an external agency for advice or help at any stage of the procedure including if they are unhappy with the way the complaint has been resolved. For further information contact:

At all stages of this procedure the complainant can be supported by the person of his/her choice.

While Tailem Bend Community Centre would prefer to deal with the complaint internally in the first instance, and is committed to doing so efficiently and sensitively, employees have the right at any stage of the procedure to contact the Equal Opportunity Commission, the Federal Human Rights and Equal Opportunity Commission or the Australian Industrial Relations Commission.

Australian Human Rights Commission's National Information Service

Call us

Infoline: 1300 656 419 or (02) 9284 9888

TTY: 1800 620 241

If you need an interpreter you can call the Translating and Interpreting Service (TIS) on **131 450** and ask to be connected to the Australian Human Rights Commission.

If you are deaf or have a hearing or speech impairment you can contact the National Relay Service (NRS) on **133 677** (TTY/Voice) or **1300 555 727** (Speak & Listen) and ask to be connected to the Australian Human Rights Commission.

Write to

Postal Address: GPO Box 5218, Sydney NSW 2001

Email: infoservice@humanrights.gov.au

Fax: (02) 9284 9611

Go online

Website: www.humanrights.gov.au

Make a complaint: <https://humanrights.gov.au/complaints/make-complaint>

Date first formulated	August 2007	
Dates approved by Board	V1 V2	24 August 2007 April 2022
Next Review Date	April 2025	
Related Documents	Staff handbook Board Information Kit Volunteer Induction Checklist Diversity and Social Inclusion Policy Human Resources Performance and Misconduct Policy Risk Management Policy (Child Safe) Statement of Commitment to the Safety and Wellbeing of Children Child safe and Young Person Risk Policy Child safe and Young Person Wellbeing Policy Feedback and complaints policy Code of Conduct TBCC Strategic Plan Grievance Procedures	
Standards	Legal Services Commission Unions Australia Human Rights Commission Equal Opportunity Commission Children and Young People (Safety) Regulations 2017 (SA) National Principles for Child Safe Organisations Child safe environments Rights of every child Department Human Service DHS Critical Client Incidents Policy Coronial Overview of child protection legislation across state and territory jurisdictions Australian Institute of Family Studies Information Sharing Guidelines Unicef – know your rights and responsibilities Children's rights and responsibilities flyer Department Human Services DHS Critical Incidents Gender diverse, intersex and sexually diverse children and young people Code of Ethics	
	Work Health and Safety Act Work Health and Safety Regulations 2012 Codes of Practice Safework SA Return to Work SA Aged Care Quality and Safety Commission Act 2018 Aged Care Act 1997 Competition and Consumer Act 2010 Associations Incorporation Act 2009 Sex and Age Discrimination Legislation Amendment Act 2011 Woman Working Centre Australian Human Rights Commission Act 1986 Children's Protection Act 1993 (SA) Fair Work Act 2009 Volunteers Protection Act 2001 (SA) Family Law Act 1975 Equal Opportunity Act 1984 Children and Young People (Safety) Act 2017 Commonwealth Privacy Act 1988 State Records Act 1997 Guardianship and Administration Act 1993 Australian Human Rights Commission Act 1986 (Federal) Crimes Act 1914 (Federal) Fairwork Act 2009 Federal Law Fair work Act 1994 State Law	
Signed on behalf of TBCC Board of Management by:		
Name:		
Position held:		Signature:
		6 April 2022