



Harassment Policy

Policy & Procedure Owner	CEO Office	
Approved By	Anthony Ryan, CEO	
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21 October 2015		October 2016

1. Introduction

Edmund Rice Foundation Australia's (ERFA) Harassment Policy is grounded in ERFA's vision for a just and peaceful world where the dignity and rights of all are respected.

ERFA's Harassment Policy covers all forms of workplace harassment, including sexual harassment and workplace bullying and is allied with ERFA's Complaints Handling Policy. All staff and volunteers should be familiar with these policies. ERFA views workplace harassment very seriously and any report will be investigated fully.

ERFA recognizes the right of all staff and volunteers to be able to attend work and to perform their duties without being subjected to any form of harassment. It is the obligation and responsibility of all staff-members and volunteers to ensure that the workplace is free from all forms of harassment. ERFA recognizes that workplace harassment would constitute a potential threat to the health and wellbeing of its staff and volunteers.

ERFA believes that all staff-members and volunteers have the right to be treated with respect and to enjoy a safe working environment free from all forms of harassment, and is fully committed to its obligation to prevent all forms of harassment in the workplace by maintaining a culture of openness, support, and accountability.

2. Purpose

The purpose of this policy is to outline ERFA's position on workplace harassment and to document the processes which are to be followed should any grievances arise, and its expectation that these principles will be adhered to by the projects it supports in developing nations.

3. Related Policies

This Harassment Policy is to be read in conjunction with ERFA's:

- Complaints Handling Policy
- Gender Equality & Female Empowerment Policy
- Diversity & Inclusiveness Policy

- Occupational Health & Safety Policy
- Staff Code of Conduct

4. Definitions

4.1 Harassment

Harassment is unwelcome or uninvited behavior that staff or volunteers find humiliating, intimidating, offensive or frightening.

Harassment may affect males and females and may be based on gender, disability, illness, race or other personal characteristics. Such behaviours may be verbal, written, sexual, physical or emotional/psychological. Examples of harassment include:

- unwelcome and uninvited verbal behaviour such as
 - offensive comments or jokes
 - inappropriate criticism in front of co-workers/visitors
 - suggestive comments about a person's physical appearance and/or sexual preference
 - offensive name calling
- unwelcome and uninvited physical behaviour such as
 - offensive staring and leering
 - pinching, patting, touching and embracing
 - displays of sexually graphic material

4.2 Sexual Harassment

Sexual Harassment is any unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated or intimidated. Examples of sexual harassment include, but are not limited to:

- staring or leering
- unnecessary familiarity, such as deliberately brushing up against or unwelcome touching
- sexually suggestive comments or jokes
- insults or taunts of a sexual nature
- intrusive questions or statements about private life
- displaying posters, magazines or screen savers of a sexual nature
- sending sexually explicit emails or text messages
- inappropriate advances on social networking sites
- accessing sexually explicit internet sites
- requests for sex or repeated unwanted requests to go out on dates
- behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications

(Note: Behaviour that is based on mutual attraction, friendship and respect is not sexual harassment.)

All sexual harassment that could constitute an offence under criminal law should be dealt with as a police matter.

4.3 Bullying

Bullying is *repeated* and *unreasonable* behaviour directed towards a person or group of persons that creates a risk to health and safety. It includes behaviour that could be expected to intimidate, offend, degrade, humiliate, undermine or threaten.

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

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

Examples of behavior, whether intentional or unintentional, that may be considered to be workplace bullying, if they are *repeated* and/or *unreasonable* and create a risk to health and safety include but are not limited to:

- abusive, insulting or offensive language or comments
- unjustified criticism or complaints
- deliberately excluding someone from workplace activities
- withholding information that is vital for effective work performance
- setting unreasonable timelines or constantly changing deadlines
- repeatedly setting tasks that are unreasonably below or beyond a person's skill level
- denying access to information, supervision, consultation or resources to the detriment of a staff-member or volunteer
- spreading misinformation or malicious rumours
- changing work arrangements such as rosters and leave to deliberately inconvenience staff or a particular staff-member

Workplace bullying can be carried out in a variety of ways including through email, text or social media channels.

Workplace bullying can occur between staff (sideways), from managers to staff (downwards), or staff to managers (upwards).

Reasonable management action is not considered to be workplace bullying if it is carried out lawfully and in a reasonable manner in the circumstances. Examples of reasonable management action include but are not limited to:

- setting reasonable performance goals, standards and deadlines
- deciding not to select a staff-member for promotion where a reasonable process has been followed
- informing a staff-member about unsatisfactory work performance in an honest, fair and constructive way
- taking disciplinary action, including suspension or terminating employment

Note: Differences of opinion and disagreements are generally not considered to be workplace bullying.

All bullying that could constitute an offence under criminal law should be dealt with as a police matter.

5. Relevant Legislation

There is a legal obligation to take all reasonable steps to prevent harassment and harassment is unlawful under the following legislation:

- Age Discrimination Act 2004 (Commonwealth)
- Australian Human Rights Commission Act 1986 (Commonwealth)
- Disability Discrimination Act 1992 (Commonwealth)
- Racial Discrimination Act 1975 (Commonwealth)
- Sex Discrimination Act 1984 (Commonwealth)
- Victorian Equal Opportunity Act 2010
- Queensland Anti-Discrimination Act 1991

6. Policy

6.1 General

- ERFA has a duty of care to provide a safe workplace and ensure, so far as is reasonably practicable, that staff-members, volunteers and other people are not exposed to health and safety risks.
- ERFA will not, under any circumstances, tolerate harassment, including sexual harassment and workplace bullying.
- No staff-member or volunteer at any level should subject any other staff-member, volunteer or visitor to any form of harassment.
- It is the responsibility of all managers, staff-members and volunteers to ensure that harassment does not occur.
- Both commonwealth and state Equal Employment Opportunity legislation dictate that harassment is unlawful and establish minimum standards of workplace behaviour.
- This policy applies to conduct that takes place in any ERFA work-related context, including conferences, work functions, social events and business and field trips.
- A breach of this policy will result in disciplinary action, up to and including termination of employment.
- ERFA strongly encourages any staff-member or volunteer who feels they have been harassed to take immediate action. If a staff-member or volunteer feels comfortable in doing so, it is preferable to raise the issue with the person directly with a view to resolving the issue by discussion. The staff-member or volunteer should identify the harassing behaviour, explain that the behaviour is unwelcome and offensive and ask that the behaviour stops. Alternatively, or in addition, they may report the behaviour in accordance with the relevant procedure (see ERFA Complaints Handling Policy). Once a report is made, ERFA has the right to determine how the report should be dealt with in accordance with its obligations and this policy.
- The *principle of confidentiality* holds particular significance in these procedures and the rights of all parties are to be respected in the course of the complaint resolution process.
- Where investigation is necessary it will occur in line with the principles of justice for both complainant and respondent. Investigations will be conducted professionally, sympathetically and in complete confidence.

- Where necessary, complaints will be documented in case of further action. Case notes will be kept in a place which is inaccessible to any unauthorised person.

6.2 Sexual Harassment

- Any reports of sexual harassment will be treated seriously and promptly with sensitivity.
- Such reports will be treated confidentially up to the point where a formal or informal complaint is lodged against a particular person, at which point that person must be notified under the rules of natural justice.
- Complainants have the right to determine how to have a complaint treated, to have support or representation throughout the process, and the option to discontinue a complaint at any stage of the process.
- The alleged harasser also has the right to have support or representation during any investigation, as well as the right to respond fully to any formal allegations made. There will be no presumptions of guilt and no determination made until a full investigation has been completed.
- No staff-member or volunteer will be treated unfairly as a result of rejecting unwanted advances. Disciplinary action may be taken against anyone who victimises or retaliates against a person who has complained of sexual harassment, or against any staff-member or volunteer who has been alleged to be a harasser.
- All staff-members and volunteers have the right to seek the assistance of the relevant tribunal or legislative body to assist them in the resolution of any concerns.
- Managers who fail to take appropriate corrective action when aware of harassment of a person will be subject to disciplinary action.

6.3 Workplace Bullying

- ERFA accepts and will act on its duty of care and all reported allegations of workplace bullying will be promptly, thoroughly and fairly investigated.
- Bullying complaints will be handled in a confidential and procedurally fair manner. Where confidentiality cannot be guaranteed this will be clearly communicated to the relevant parties.
- All parties will be treated with respect.
- The person against whom the allegation is made has the right to natural justice (the right to know what is alleged against them, the right to put their case in reply, and the right for any decision to be made by an impartial decision-maker).

6.4 Affirmative Action

In order to affirm each individual's worth and dignity, the following practices are encouraged:

- mutual interest in, care and support for one another
- a warm welcome to all visitors
- regular opportunities for staff to meet over common issues and to raise any matters of concern
- social gatherings
- promotion of an affirming and respectful atmosphere

7. Reporting & Resolution Processes

The processes and procedures set out in ERFA's Complaints Handling Policy should be followed for the reporting and resolution of harassment complaints.

7.1 Aims

- That any offending behaviour stops
- That there are no reprisals for having brought forward a complaint
- That where disadvantage has occurred it is redressed
- That the emphasis lies in resolution of the complaint and on future behaviour rather than retribution for the past

7.2 Procedures

- The complainant retains the right to determine whether the resolution process will be an internal or an external process. It is hoped that the internal resolution process would be attempted first if possible. The internal resolution process may include contact by the complainant with the CEO or Board Chair for an initial confidential advisory meeting.
- Following the initial advisory meeting, there may be an attempt by the complainant to resolve the matter personally. Alternatively, the complainant may attempt a resolution with assistance from the CEO or Board Chair.
- The external resolution process may include:
 - mediation and/or conciliation with assistance from an outside mediator if requested by the complainant or respondent
 - investigation and formal determination in cases where mediation and/or conciliation have not been successful

Note: A complainant may, at any time, choose to contact outside organisations such as the Commonwealth Equal Opportunity Commission.

7.3 General

- In external procedures, all matters related to the complaint and the resolution process will be documented. The records will be kept confidential and their access strictly limited to those involved in the resolution process.
- Internal resolution of complaints is not appropriate in cases that constitute an offence under criminal law, such as assault and sexual assault, and should be dealt with as a police matter.

8. Responsibilities

It is the responsibility of the CEO to ensure that all staff-members and volunteers:

- understand and are committed to the rights and entitlements of all staff-members and volunteers to attend work and perform their duties without fear of harassment in any form
- understand what constitutes harassment, sexual harassment and bullying
- are regularly made aware of their obligations to provide a workplace free from all forms of harassment

It is the responsibility of the CEO to:

- ensure that this policy is adhered to
- provide an environment which discourages harassment and victimisation and set an example by their own behavior

- ensure that professional development is provided periodically for all staff and volunteers regarding inappropriate behaviour in the workplace, including sexual harassment and workplace bullying
- to ensure that ongoing support and guidance is provided to all staff-members and volunteers in relation to the prevention of workplace harassment
- treat all complaints seriously and confidentially
- take immediate and appropriate corrective action if they become aware of any offensive behaviour

It is the responsibility of the Board of Directors to ensure that:

- this policy is reviewed regularly and amended (if necessary)
- the CEO is aware of their obligations and responsibilities in relation to this policy