

**Hornsby Ku-ring-gai Community Transport
Section 4 Work Health & Safety & Vehicles
Policy 4.03 Workplace Bullying, Harassment, Sexual Harassment and
Discrimination**

Policy Statement

HKCT is committed to ensuring that the learning and working environment is positive and supportive for all team members of the workplace. Therefore, HKCT is committed to ensuring that the working and learning environment is free of bullying, harassment, sexual harassment and discrimination.

Policy Protocols

The Service will, so far as reasonably practical:

- foster an environment where all members of the workplace are treated with dignity, courtesy and respect;
- promote appropriate standards of conduct at all times;
- implement training and awareness-raising strategies to ensure that everyone knows their rights and responsibilities; and
- where necessary encourage reporting of inappropriate behaviour and provide an effective procedure for resolving complaints in a sensitive, fair and timely manner and as confidentially as possible.
- Monitor and review safety systems through in-house and external safety reviews.

This Policy sets out what constitutes discrimination, harassment, sexual harassment and bullying and what you can do if you experience these things. It also details the complaints procedure which HKCT has implemented to ensure that any form of discrimination, harassment, sexual harassment or bullying is dealt with promptly, confidentially and impartially.

Legislation

Both Federal and State legislation is relevant to the concepts discussed in this policy. This legislation includes:

Federal:

Disability Discrimination Act 1992
Racial Discrimination Act 1975
Sex Discrimination Act 1984
Fair Work Act 2010
Human Rights and Equal Opportunity Commission Act 1996
Age Discrimination Act 2004
Equal Opportunity for Women in the Workplace Act 1999

NSW:

Anti Discrimination Act 1976
Occupational Health and Safety Act 2000

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Discrimination

It is unlawful to discriminate against or harass a person in employment (or in the provision of goods and services) on the basis of any of the following attributes or personal characteristics:

- age;
- disability or impairment (physical, intellectual, mental or psychiatric);
- race, colour, descent or national or ethnic origin;
- religious belief or activity;
- sex;
- gender identity;
- transgender or transsexual status;
- lawful sexual activity/sexual orientation;
- family, marital, parental or carer status;
- physical features;
- political opinion, belief or activity;
- industrial activity or membership of an industrial association;
- pregnancy or potential pregnancy;
- breast feeding;
- medical record;
- criminal record; and
- personal association with a person who is identified by reference to any of the above attributes.

Discrimination is treating a person with an identified attribute or personal characteristic less favourably than a person who does not have the attribute or characteristic, who is otherwise in the same or similar circumstances. Discrimination can be either direct or indirect.

Direct Discrimination

Direct discrimination is treating, or proposing to treat, a person less favourably on the basis of an attribute or personal characteristic of the person which is covered by equal opportunity law, regardless of the discriminator's motive and whether they are aware of the discrimination or consider the treatment to be less favourable.

Indirect Discrimination

Indirect discrimination is unreasonably imposing, or intending to impose, on a person with an attribute or characteristic covered by equal opportunity law a requirement, condition or practice that can only be complied with by a higher proportion of people without the attribute or personal characteristic. Awareness of the discrimination is irrelevant. Indirect discrimination can occur when a requirement, condition or practice which appears to be neutral, in fact has a disproportionately negative impact on a particular group.

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Harassment

Harassment is a form of discrimination. Harassment is unwelcome and unwanted conduct based on one of the attributes listed above that causes a person to be offended, humiliated or intimidated.

The reasonable person test applies. That is, would a reasonable person, given all the circumstances, have anticipated that the behaviour would be found offensive, humiliating or intimidating.

Sexual Harassment

A person sexually harasses another if he or she:

- makes an unwelcome sexual advance;
- makes a request for sexual favours; or
- engages in any other unwelcome conduct of a sexual nature;

in circumstances in which a reasonable person, aware of all of the circumstances, would have anticipated that the conduct would cause offence, humiliation or intimidation.

Sexual harassment is unwelcome, uninvited conduct that is offensive from the view point of the person harassed, regardless of any innocent intent on the part of the offender.

It is not behaviour that is based on mutual attraction between people or friends.

Sexual harassment may occur in a single incident or series of incidents.

Types of sexual harassment

Sexual harassment can take many forms and can be physical, verbal or written. It is not just the obvious harassment of unwelcome physical behaviour such as inappropriate touching, patting, brushing up against someone or offensive gesturing. Sexual harassment can either be direct or indirect.

Sexual harassment takes a variety of forms, including:

- Sexual or suggestive remarks
- Sexual propositions or requests for dates
- Repeated questions about a person's private life
- Sexual jokes and innuendo
- Physical contact such as touching, deliberate brushing up against a person, hugging etc. against a person's will
- Offensive telephone calls, reading matter, email, screen savers, pictures, calendars etc.

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- Suggestive looks or leers
- Sexually explicit conversations

Bullying

Bullying is repeated, unreasonable behaviour directed towards an employee that creates a risk to health and safety.

Unreasonable behaviour is behavior that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten another.

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

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

Unacceptable behaviour makes the workplace uncomfortable, unpleasant and often unsafe. The following types of behaviour, where repeated or occurring as part of a pattern of behaviour, could be considered bullying:

1. verbal abuse
2. excluding or isolating employees
3. psychological harassment
4. intimidation
5. assigning meaningless tasks unrelated to the job
6. giving employees impossible assignments
7. deliberately changed work rosters to inconvenience particular employees
8. deliberately withholding information vital for effective work performance

The list is not exhaustive. Other types of behaviour may also constitute bullying. Bullying is usually not a once off incident but could be if the once off incident is sufficiently serious.

Bullying does not include reasonable and legitimate actions of HKCT in managing an employee's performance, managing or altering an employee's workload, reporting structure or duties or counselling an employee.

Related Procedures

- [PRO 4.01-1](#) Commitment to Workplace Health & Safety
- [PRO 4.01-2](#) Workplace Health & Safety Flowcharts
- [PRO 4.01-3](#) Responsibility for Workplace Health & Safety
- [PRO 4.01-4](#) Consultation

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- [PRO 4.01-5](#) Training, Skills & Competency
- [PRO 4.01-6](#) Hazard Identification & Risk Management
- [PRO 4.01-7](#) Safety Review Meeting
- [PRO 4.01-8](#) First Aid, Accident/Injury & Incident Reporting
- [PRO 4.01-9](#) Emergency & Critical Incident Management
- [PRO 4.01-10](#) Workers Compensation, Return to Work & Injury Management
- [PRO 4.01-11](#) Workplace Health & Safety Issue Resolution
- [PRO 4.01-12](#) Infection Control
- [PRO 4.01-13](#) Workplace Bullying and Harassment
- [PRO 4.01-14](#) Purchasing, Hazardous Materials, Electrical & Fire Safety
- [PRO 4.01-15](#) Manual Handling
- [PRO 4.01-16](#) Personal Protective Equipment
- [PRO 4.01-17](#) Office Safety & Security
- [PRO 4.01-18](#) Safe Work Procedures

Relevant Standard

Community Care Common Standards

1. Effective Management

Disability Service Standards

8. Service Management

Policy History

No: 4.01	Work Place Health & Safety		Date Approved		
Date Policy due to be reviewed	Date Policy Reviewed:	Amendments	Positions informed/trained regarding amendments	Method	Date
1/2/16					