

Respectful Behaviours Policy & Issue Resolution Procedures



Policy Relevant to:	All educators, Team members and families
Last Reviewed:	June 2021
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NQF:	171
NQS:	2, 2.1, 2.2
National Law:	51 (1) (a)

Purpose

Adventure Patch is an equal opportunity organisation and employer, which requires respectful behaviour of all members, employees, contractors', volunteers, corporate partners, and service providers.

Our culture is one where equal opportunity and respectful behaviour is the only acceptable way of conducting business.

Adventure Patch aims to ensure that a fair and equitable workplace free from inappropriate behaviours such as bullying, discrimination, harassment, victimisation, vilification, or violence is provided.

Any person who engages in such behaviours may be held personally liable and may expose the organisation to liability and any proven breaches of this policy will result in fair and appropriate action in accordance with normal business and employment practises, our policies and the Code of Conduct as applicable.

The CEO is responsible for ensuring that the Adventure Patch educators, staff and contractors are employed on basis of equal opportunity and are then able to work in a safe and respectful environment. The CEO will ensure compliance with this policy and associated procedures.

The CEO will ensure that respectful professional behaviour exists at all times between staff and will ensure compliance with this policy and associated procedures at all times.

General standards of professional behaviour are detailed in the Adventure Patch Code of Ethics.

Scope

This Policy and Procedure applies to the interactions between members, educators, employees (full-time, part-time and casual), labour hire agency staff, contractors and volunteers engaged by, or involved in, the business of Adventure Patch.

It includes any place a person may enter for the purpose of carrying out any function in relation to their employment or volunteer activity and in any work-related context, including social functions. It also relates to conduct outside the workplace or outside of work hours that would likely cause serious damage to the relationship between Adventure Patch and Employees, Contractors or other people at the Workplace or damage Adventure Patch's interests or reputation.

Responsibilities and Delegations

Employees

Employees, Contractors and other people at the Workplace are required to comply with this Policy and must not:

- unlawfully discriminate against other Employees, Contractors or Other People at the Workplace.
- engage in unlawful adverse action.
- harass (including sexually harass), other Employees, Contractors or other people at the Workplace.
- bully, victimise or vilify other Employees, Contractors or other people at the Workplace.
- engage in workplace violence; or
- engage in inappropriate workplace behaviour.

Managers

Managers are required to comply with this Policy and must:

- reasonably promote this Policy within their area of responsibility and take reasonable steps to ensure that any potential breaches of this Policy are identified, taken seriously and acted upon appropriately; and
- manage issues under this Policy in a sensitive and confidential manner.

Definitions and Examples

Bullying

Bullying is repeated, unreasonable behaviour directed towards another person or a group of people, that creates a risk to health and safety.

'*Repeated behaviour*' refers to the persistent nature of the behaviour and can refer to a range of behaviours over time.

'*Unreasonable behaviour*' means behaviour that a reasonable person, having regard to the circumstances, would see as unreasonable (eg. Victimising, humiliating, undermining, or threatening).

'*Risk to health and safety*' can refer to physical or psychological injury that may occur as a result of the repeated, unreasonable behaviour.

Bullying is unprofessional and unnecessary. Workplace bullying is an offence under all circumstances, but a clear distinction needs to be made between it and taking reasonable management action in a reasonable manner in the normal course of business. State and Territory Health and Safety legislation recognises this. Bullying can occur face-to-face, over the phone, via email, instant or text messaging or using social media technologies.

What is intentional or unintentional bullying?

Bullying can be intentional, where the actions are intended to humiliate, offend, intimidate or distress, whether or not the behaviour did have that effect. Even indirect

bullying will often occur intentionally.

Bullying can also be unintentional, where actions which, although not intended to humiliate, offend, intimidate, or distress, do so and would be reasonably likely to do so. Sometimes people do not realise that their behaviour can be harmful to others because that is how they would like to be treated. Direct bullying may occur unintentionally even where the intentions are good, but the impact is harmful and the behaviour is not reasonable in the circumstances.

Examples of direct Bullying

- Aggressive and abusive or threatening language.
- Yelling and invading personal space.
- Finger pointing, eye rolling scowling.
- Inappropriate emails containing unjustified criticism.
- Unnecessarily delivering negative feedback in front of co-workers.

Examples of indirect Bullying

- Spreading rumours or lies.
- Displaying degrading or offensive material in workplace.
- Deliberately excluding, isolating, or marginalising a person.
- Deliberately withholding information that is vital to do a job.
- Deliberately setting unrealistic deadlines and tasks that are unreasonably above or below a person's skill or experience.
- Deliberately changing work arrangements to cause stress.

Conciliation

Conciliation is a process in which the parties to a dispute, with the assistance of a neutral third party (the conciliator), identify the disputed issues, develop options, consider alternatives and endeavour to reach an agreement.

Conciliator

The Conciliator shall:

- Attempt to resolve the matter through conciliation or mediation by talking with both parties.
- Be a specialist external service provider.
- A person that both parties agree to acting as a conciliator.

Contact Officer

The Contact Officer is Adventure Patch's Official Initial Point of Contact for assistance and action:

- CEO
- Human Resource Officer

Discrimination

Unlawful discrimination may be direct or indirect:

- Direct – when a person treats or proposes to treat another person less favourably because the person has an attribute (listed below) than they treat or would treat another person without that attribute or with a different attribute, in the same or similar circumstances.
- Indirect – when a person implements or proposes to implement a requirement, condition, practice, or procedure which is the same for everyone, but someone with an attribute (listed below) cannot satisfy it or its effect is to disadvantage someone with an attribute, and it is unreasonable in the circumstances.

Protected attributes include:

- Age.
- Gender or gender identity.
- Physical, mental, intellectual or psychiatric disability or impairment.
- Industrial/union membership or activity/inactivity.
- Lawful sexual activity.
- Marital status, including any relationship or form of relationship.
- Physical features.
- Political belief or activity.
- Pregnancy/breastfeeding.
- Race, including colour, descent, national or ethnic origin.
- Religious belief or activity.
- Sex, including pregnancy, family responsibilities (dismissal only) and sexual harassment.
- Sexual orientation or preference.
- Status as a parent or carer.
- Medical record.
- Social origin.
- Criminal record (if irrelevant).
- Personal association with someone who has one or more of the above attributes.

Formal Action

- Requires a written complaint.
- Is for Serious Matters or where conciliation fails.

Harassment

Harassment is a form of discrimination. It is unwelcome, uninvited behaviour on the basis of one or more of the protected attributes which the other person finds offensive, humiliating, intimidating, or frightening. It can take many forms such as:

- Physical contact.
- Inappropriate verbal comments.
- Inappropriate jokes, gestures, actions, or behaviour.
- Displaying offensive material.
- Bullying.
- Creating a hostile / uncomfortable work environment.

NOTE:

- It is irrelevant whether or not the person intended to discriminate against or harass the other person.
- It is also important to understand that it is the individual being subjected to the behaviour who determines whether the behaviour is welcome or unwelcome.

Some examples of workplace harassment include:

- Telling a joke about a LGBTQI person which may offend someone who is homosexual.
- Sending an email to workmates ridiculing a colleague because they have taken carer's leave to look after a sick child which may be humiliating and offensive.
- Putting a sign on the door of a room where a person is expressing breast milk unnecessarily advertising the activity the person is engaging.
- Telling a person who is pregnant that they are getting fat or must be having twins which is offensive
- Telling a person she is 'just a young girl and could not be expected to cope in the Workplace'.

Inappropriate Workplace Behaviour

Inappropriate workplace behaviour is any behaviour that Adventure Patch reasonably considers is not appropriate workplace behaviour or is unacceptable in the workplace. It is behaviour that is inconsistent with Adventure Patch's policies, procedures, expectations and way of doing things. It may also be unlawful behaviour but not in all cases. It is important that awareness of Adventure Patch's standards and values are obtained and upheld in order to ensure behaviour is appropriate.

Some examples of inappropriate workplace behaviour include:

- Treating people rudely, disrespectfully or without dignity are examples of what is considered to be inappropriate Workplace behaviour.
- At the 'high' or serious end of the scale, it is behaviour that may also constitute
 - misconduct at common law.
- At the low or 'less serious' end of the scale, it may be behaviour that is inappropriate but not unreasonable (e.g. a Manager privately makes crude jokes with a direct subordinate in the Workplace which are not based on protected attributes). This may not be unlawful in the circumstances, in that the employee welcomes the behaviour and no-one overheard or was likely to but is still considered inappropriate Workplace behaviour because it amounts to poor judgment and is below the standards expected of a Manager.

Respectful Behaviour

For the purposes of this Policy and Procedure, Respectful Behaviour refers to the positive and respectful ways we should interact with others. Behaviour that does not meet this standard would be considered in breach or potential breach of the provisions of relevant Commonwealth, State or Territory laws related to Work Health and Safety, Equal Employment Opportunity, Discrimination, Harassment, Sexual Harassment, Bullying or Occupational Violence.

Sexual Harassment

Sexual harassment is any unwanted or unwelcome conduct which:

- is of a sexual nature in that there is a sexual element, overtone or implication, which may not in isolation appear to be sexual in nature, but may become so because of the surrounding circumstances; and,
- is unreasonable in the circumstances; and,
- a reasonable person, having regard to all the circumstances would have anticipated would cause another person to be offended, humiliated, intimidated, insulted or ridiculed.

Some examples of sexual harassment include:

- Persistent, unwelcome demands or even subtle pressures for sexual favours or outings.
- Staring or leering, patting, pinching, touching or unnecessary familiarity.
- Offensive comments or questions about a person's physical appearance, dress or private life.
- Sexually explicit pictures, posters, videos or screen savers (words and images) viewed on the Adventure Patch's I.T. Systems, company or personal mobile phones.
- Sexually explicit telephone calls, letters, faxes, text or multi-media messages, 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 telephone calls, letters, emails etc).

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

Victimisation

This occurs if an individual threatened with, or subject to, any form of detriment because that person, or someone associated with that person, has made an allegation or complaint of discrimination or harassment.

Some examples of victimisation include:

- Refusing to employ another person;
- Terminating or threatening to terminate employment;
- Prejudicing or threatening to prejudice a person in their employment (e.g.

- refusing to provide a favourable reference);
- Intimidating or coercing (e.g. excluding a person from workplace discussions);
- Imposing any pecuniary penalty or other penalty (e.g. withholding wages)
- Taking disciplinary action (e.g. giving an Employee a warning).

Workplace Violence

Workplace violence occurs when a person abuses, threatens or assaults another person in circumstances relating to their work or the workplace. Unlike bullying, workplace violence can still occur without repeated behaviour. Threats to harm someone, violence and damage to property are breaches of law that should be referred to the Police and any other appropriate authority.

Some examples of Workplace Violence include:

- Threatening to kill or hurt a person or their family;
- Assault; or
- Throwing something at another person

Procedure

If you believe a person is behaving in a manner not in line with the requirements of this policy, you should:

- Not ignore it (this could be taken as implied approval).
- Inform the other person that you find their behaviour to be offensive, unlawful, unacceptable and against organisational policy (but only if you are comfortable in doing so).
- Seek assistance in having the behaviour stopped. This may include making a report or a complaint to the Contact Officers' who will advise you of the ways in which the issue can be addressed.

What will happen if you make a complaint or report?

Any complaints or reports of discrimination, harassment or bullying will be treated seriously and with sensitivity. The complaint will be investigated immediately, thoroughly, impartially and confidentially.

Any individual who raises or supports someone who raises a concern will not suffer a negative consequence as a result of raising that concern.

Complaint Process

- Decide, in consultation with the complainant, whether the matter can be resolved informally or should be referred to the formal resolution process.
- Respect the sensitive nature of the case and ensure confidentiality. Make sure that

no information regarding the complaint is discussed outside of this Procedure.

- Assure the complainant that all details of the complaint will be received in confidence and allow the individual to be consulted in regard to the Procedure.
- Emphasise the protection of the complainant at all times. No face-to-face meeting will take place without consent of both parties.
- Assure the complainant that his or her employment, volunteer or supplier status will not be disadvantaged in any way.
- Notify the respondent of the nature of that complaint as soon as possible after the formal complaint is made.
- Inform all parties they have the right to have representation / support, if they choose, in any investigatory procedures.
- Give the respondent an opportunity to be heard prior to considering whether disciplinary action should be taken.
- Take relevant disciplinary action against anyone who has breached this Policy in accordance with the Adventure Patch's Code of Conduct.

NOTE: During these steps, the complainant and the respondent may request that another person accompany him or her as a support person. (This may be a union representative, a colleague, a family member, or a friend).

Investigation

Where necessary, the complaint will be investigated by a person approved by the Principals. This may be an external party.

Procedures: Informal

In many instances attempts can be made to resolve complaints informally.

The expected outcome is that both parties are satisfied that a resolution has been reached and the complainant is satisfied that no further incidents will occur.

The purpose of the informal procedure is to resolve the issues, not to establish "innocence" or "guilt".

Complainant Action

Complainants may choose to deal with the respondent themselves. If doing so, they are encouraged to first seek advice from the nominated Contact Officer.

A complainant may:

- Directly approach the respondent, explain how their behaviour is affecting them and ask them to stop.
- Approach the respondent, accompanied by the Principals or other support person, and proceed as above.
- Write a confidential letter to the respondent which sets out the effect of their behaviour and which asks them to stop the behaviour.

OR

Contact Officer

A complainant may request the Contact Officer to work with them to resolve the issue by way of appropriate informal procedure.

Procedures: Formal

Formal procedures should be used when informal conciliation has been unsuccessful or is not considered appropriate.

A formal complaint may only proceed if the complainant is prepared to have his or her identity made known to the respondent.

- A formal complaint must be lodged by the complainant in writing to a Contact Officer.

Responsibilities

Members, educators, employees, volunteers, suppliers, and corporate partners shall:

Support, understand and comply with this Policy at all times including the workplace.

- Ensure the work environment is free from harassment and discrimination.
- Not tolerate any form of discrimination and notify a Contact Officer if it arises.
- Offer support to anyone who is being harassed and let them know where they can seek assistance (do not however approach the respondent);
- Maintain complete confidentiality if you are provided with information during the investigation of a complaint.
- Do not spread gossip or rumours as they may expose an individual to a defamation action.
- Do not make judgements or victimise any person associated with a complaint.

Contact Officers: CEO & HR Officer

The CEO and HR Officer are responsible for the execution of the responsibilities assigned in the Adventure Patch Policy.

This includes:

- Being familiar with the Adventure Patch *Respectful Behaviour Policy*.
- Briefing all relevant parties on the terms of this Policy and making clear that discrimination and harassment will not be tolerated.
- Treating all complaints seriously and taking immediate and appropriate action in the event of a complaint under the terms of this Policy.
- Applying and promoting the Policy and procedure fairly, consistently and without bias.
- always Modelling non-discriminatory behaviour in the workplace.
- Monitoring the working environment (including computer screens) to ensure they are free of offensive material and that acceptable standards of conduct are observed at all times.
- Providing confidential assistance to individuals, including investigating issues raised.

- Trying to resolve the matter or referring a complaint to external parties if there is a conflict of interest or if the complaint is particularly complex or serious.
- Maintaining confidential, accurate, factual written records of matters.
- Educating employees, members, volunteers, suppliers, corporate partners about the **Respectful Behaviour Policy** and participating in training programs.
- Communicating the Policy to all existing employees, volunteers and members and providing them with a copy and access to it via the organisation's intranet and / or administration manual.
- Recruiting, promoting, developing, training and transferring employees on the basis of merit and performance.
- Informing all new employees, members and volunteers during their induction, of the *Respectful Behaviour Policy*, the standards expected, and the Procedure for making a complaint
- Providing advice on and circulating this Policy.
- Maintaining the Policy to reflect changes to the law in this area.

Sources

- Commonwealth Racial Discrimination Act 1975
- Commonwealth Sex Discrimination Act 1984
- Commonwealth Human Rights and Equal Opportunity Commission Act 1986
- Commonwealth Disability Discrimination Act 1992
- Commonwealth Racial Hatred Act 1995
- Commonwealth Workplace Relations Act 1996
- Commonwealth Equal Employment Opportunity for Women in the Workplace Act 1999
- Tasmanian Anti-Discrimination Act 1998
- Victorian Racial and Religious Tolerance Act 2001
- Age Discrimination Act 2004 (Cth)
- Fair Work Act 2009 (Cth)
- Privacy Act 1988 (Cth)
- Workplace Gender Equality Act 2012 (Cth)
- Work Health and safety Act 2011 (Cth)
- Work Health and safety Act 2012 (Tas)
- Education and Care Services National Law Act 2010
- Education and Care Services National Law (Application) Act 2011
- Any comparable and applicable legislation enacted by a State or Territory of Australia