

Equal Employment Opportunity & Anti-Discrimination Policy



Policy Relevant to:	All Staff, Board Members, Contractors, Volunteers
Last Reviewed:	September 2023
Next Review:	September 2026
NQF	N/A
NQS	N/A

Purpose

Adventure Patch is committed to providing a safe, flexible and respectful environment for staff and families free from all forms of discrimination, bullying and sexual harassment.

All staff are required to treat others with dignity, courtesy and respect.

By effectively implementing our Equal Employment Opportunity & Anti-Discrimination Policy we will attract and retain talented staff and create a positive working environment for staff.

This Policy applies on-site, off-site and after-hours. It applies at work-related social functions, online, on social media or whenever and wherever those covered may be as a result of their engagement with Adventure Patch.

Implementation

Staff rights and responsibilities

All staff are entitled to:

- Recruitment and selection decisions based on merit and not affected by irrelevant personal characteristics
- Work free from discrimination, bullying and sexual harassment
- The right to raise issues or to make an enquiry or complaint in a reasonable and respectful manner without being victimised
- Reasonable flexibility in working arrangements, especially where needed to accommodate their family responsibilities, disability, religious beliefs or culture.

All staff must:

- Follow the standards of behaviour outlined in this policy
- Offer support to people who experience discrimination, bullying or sexual harassment, including providing information about how to make a complaint
- Avoid gossip and respect the confidentiality of complaint resolution procedures
- Treat everyone with dignity, courtesy and respect.

Additional responsibilities of managers and supervisors

Managers and supervisors must also:

- Model appropriate standards of behaviour
- Take steps to educate and make staff aware of their obligations under this policy and the law
- Intervene quickly and appropriately when they become aware of inappropriate behaviour
- Act fairly to resolve issues and enforce workplace behavioural standards, making sure relevant parties are heard

- Help staff resolve complaints informally
- Refer formal complaints about breaches of this policy through the appropriate channels
- Ensure staff who raise an issue or make a complaint are not victimised
- Ensure that recruitment decisions are based on merit and that no discriminatory requests for information are made
- Seriously consider requests for flexible work arrangements.

Unacceptable workplace conduct

Discrimination, bullying and sexual harassment are unacceptable at Adventure Patch and are unlawful under legislation.

Staff (including managers) found to have engaged in such conduct might be counselled, warned or disciplined. Severe or repeated breaches can lead to formal discipline up to and including termination of employment.

Under the law staff can be held personally liable for certain breaches of discrimination law, and Adventure Patch can also be vicariously liable for team members' conduct.

Discrimination

Discrimination is treating, or proposing to treat, someone unfavourably because of a personal characteristic protected by the law, such as sex, age, race or disability.

Discrimination can occur:

Directly, when a person or group is treated less favourably than another person or group in a similar situation because of a personal characteristic protected by law (see list below).

For example, a worker is harassed and humiliated because of their race or

A worker is refused promotion because they are 'too old'

Indirectly, when an unreasonable requirement, condition or practice is imposed that has, or is likely to have, the effect of disadvantaging people with a personal characteristic protected by law (see list below).

For example, redundancy is decided based on people who have had a worker's compensation claim rather than on merit.

Protected personal characteristics under Federal discrimination law include:

- A disability, disease or injury, including work-related injury
- Parental status or status as a carer, for example, because they are responsible for caring for children or other family members
- Race, colour, descent, national origin, or ethnic background
- Age, whether young or old, or because of age in general
- Sex or gender
- Industrial activity, including being a member of an industrial organisation like a trade union or taking part in industrial activity, or deciding not to join a union
- Religion
- Pregnancy and breastfeeding
- Sexual orientation, intersex status or gender identity, including gay, lesbian, bisexual, transsexual, transgender, queer and heterosexual

- Marital status, whether married, divorced, unmarried or in a de facto relationship or same sex relationship
- Political opinion
- Social origin
- Medical record
- An association with someone who has, or is assumed to have, one of these characteristics, such as being the parent of a child with a disability.

It is also against the law to treat someone unfavourably because you assume they have a personal characteristic or may have it at some time in the future.

Disability discrimination

Employers are also required in some circumstances to make "reasonable adjustments" to facilitate team members with disabilities to perform the "inherent requirements" of the particular role they perform. An employer will be deemed to have discriminated against a team member if they fail to make these adjustments.

The "inherent requirements" of a position are the essential activities that must be carried out to fulfil the purpose of the position.

An adjustment is not reasonable if it will impose "unjustifiable hardship" on the employer. In assessing unjustifiable hardship factors to be considered include:

- The nature of the benefit or detriment to be imposed on any person concerned, including the community
- The effect of the team member's disability
- The financial circumstances and the estimated amount of expenditure required to be made by the employer
- The availability of financial and other assistance to the employer.

Examples of adjustments that may in some circumstances be reasonable for an employer to make include:

- Changing recruitment and selection procedures. For example, providing a sign language interpreter for a Deaf person or ensuring the medical assessor is familiar with a person's particular disability and how it relates to the job requirements.
- Modifying work premises. For example, making ramps, modifying toilets or providing flashing lights to alert people with a hearing loss.
- Changes to job design, work schedules or other work practices. For example, swapping some duties among staff or providing regular meal breaks for a person with diabetes.
- Modifying equipment. For example, lowering a workbench or providing an enlarged computer screen.
- Providing training or other assistance. For example, running induction programs for staff with a disability and their co-workers, providing a mentor or support person for a person with an intellectual disability, and including staff with a disability in all mainstream training.

It is not unlawful to discriminate against a person because of their disability where:

- They cannot meet the inherent requirements of the job, even when the employer has made any reasonable adjustments or

- Providing the person with reasonable adjustments to facilitate their disability imposes an unjustifiable hardship on the employer.

Bullying based on protected personal characteristics

If someone is being bullied because of a personal characteristic protected by equal opportunity law, it is a form of discrimination.

Bullying can take many forms, including jokes, teasing, nicknames, emails, pictures, text messages, social isolation or ignoring people, or unfair work practices.

Under Federal law, this behaviour does not have to be repeated to be discrimination – it may be a one-off event. Behaviours that may constitute bullying include

- Sarcasm and other forms of demeaning language
- Threats, abuse or shouting
- Coercion
- Isolation
- Inappropriate blaming
- Ganging up
- Constant unconstructive criticism
- Deliberately withholding information or equipment that a person needs to do their job or access their entitlements
- Unreasonable refusal of requests for leave, training or other workplace benefits.

Any form of bullying is unacceptable in Adventure Patch and may also be against workplace health and safety law. Adventure Patch has a separate Workplace Anti-Bullying and Anti-Harassment Policy which team members must read and abide by, this deals with bullying and harassment that is not a form of discrimination (ie where not based on a protected personal characteristic).

Sexual Harassment

Sexual harassment is a specific and serious form of harassment. It is unwelcome sexual behaviour, which could be expected to make a person feel offended, humiliated or intimidated. Sexual harassment can be physical, spoken or written. It can include:

- Comments about a person's private life or the way they look
- Sexually suggestive behaviour, such as leering or staring
- Brushing up against someone, touching, fondling or hugging
- Sexually suggestive comments or jokes
- Displaying offensive screen savers, photos, calendars or objects
- Repeated unwanted requests to go out
- Requests for sex
- Sexually explicit posts on social networking sites
- Insults or taunts of a sexual nature
- Intrusive questions or statements about a person's private life
- Sending sexually explicit emails or text messages
- Inappropriate advances on social networking sites
- Accessing sexually explicit internet sites
- 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.

Just because someone does not object to inappropriate behaviour in the workplace at the time, it does not mean that they are consenting to the behaviour.

Sexual harassment occurs in the workplace when it happens at work, at work-related events, between people sharing the same workplace, or between colleagues outside of work.

All staff and volunteers have the same rights and responsibilities in relation to sexual harassment. A single incident is enough to constitute sexual harassment – it doesn't have to be repeated.

All incidents of sexual harassment – no matter how large or small or who is involved – require employers and managers to respond quickly and appropriately.

Adventure Patch recognises that comments and behaviour that do not offend one person can offend another. This policy requires all staff and volunteers to respect other people's limits.

Adventure Patch will not tolerate or accept any form of sexual harassment, in the workplace or in any work-related context such as conferences, work functions and business trips. All team members are responsible for their own behaviour, and under the law may be held personally liable if they engage in sexual harassment. Adventure Patch may also be vicariously liable for team members found to have engaged in any form of sexual harassment.

Victimisation

Victimisation is subjecting or threatening to subject someone to a detriment because they have asserted their rights under equal opportunity law, made a complaint, helped someone else make a complaint, or refused to do something because it would be discrimination, sexual harassment or victimisation. Victimisation is against the law.

It is also victimisation to threaten someone (such as a witness) who may be involved in investigating an equal opportunity concern or complaint.

Victimisation is a very serious breach of this policy and is likely (depending on the severity and circumstances) to result in formal discipline against the perpetrator.

Adventure Patch has a zero-tolerance approach to victimisation.

Vilification

Vilification is where a person commits a public act which is reasonably likely to offend, insult, humiliate or intimidate another person because of their race, sex, religion, sexuality or sexual identity. Hatred or vilification due to an attribute protected under equal opportunity laws is unlawful.

Adventure Patch will not tolerate or accept any form of hatred or vilification due to a protected attribute of another person.

Any conduct that can possibly be observed by the public or any sort of communication either verbal or in writing to the public can be considered a public act. Workplaces can be public places.

Adventure Patch may be vicariously liable for team members found to have engaged in any form of unlawful hatred or vilification. Staff may also be sued personally or prosecuted criminally under Commonwealth or State criminal laws.

Conduct that may constitute vilification can include verbal or written statements, or even be the reproduction or distribution of already published information. Examples include:

- Offensive material on the internet, including e-forums, blogs, social networking sites and video sharing sites
- Offensive comments or images published in a publication such as a leaflet, flyer, internal message board or workplace intranet
- Offensive speeches at public events, work functions or in the workplace
- Abusive comments in any public place, such as the workplace, or any other place attended in connection with employment
- In some instances, the reproduction or distribution of already published information around the workplace.

Confidentiality

It is unacceptable for staff at Adventure Patch to talk with other team members, families or suppliers about any complaint of discrimination or harassment without Adventure Patch's express permission.

Breaching the confidentiality of a formal complaint investigation or inappropriately disclosing personal information obtained in a professional role (for example, as a manager) is a serious breach of this policy and may lead to formal discipline.

Decisions to be based on merit

All recruitment and job selection decisions at Adventure Patch will be based on merit – the skills and abilities of the candidate as measured against the inherent requirements of the position – regardless of personal characteristics.

It is unacceptable and may be against the law to ask job candidates questions, or to in any other way seek information, about their personal characteristics, unless this can be shown to be directly relevant to a genuine requirement of the position.

Resolving issues

Adventure Patch strongly encourages any team member who believes they have been discriminated against, bullied, sexually harassed, vilified or victimised to take appropriate action by making a complaint in accordance with the Grievance Handling Policy.

Any team member who has witnessed any discrimination, bullying, sexual harassment, vilification or victimisation should report this to their manager or other responsible person in Adventure Patch, or can raise a complaint in accordance with the Grievance Handling Policy.

Related Policies

Adventure Patch's Code of Conduct

Workplace Anti-Harassment and Anti-Bullying Policy

Grievance Handling Policy

Disciplinary & Termination Policy

Privacy and Confidentiality Policy

Social Media Policy

About this Policy

Unless the Policy specifically states otherwise, the Policy does not form part of your employment agreement with Adventure Patch. Adventure Patch may unilaterally vary, remove or replace

this Policy at any time. To the extent that this Policy imposes any obligations on Adventure Patch and/or purports to provide any right or benefit to you, those obligations are not contractual and do not give rise to any contractual rights. You are required to be familiar with the content of the Policy and comply with the terms at all times.

Source

Fair Work Act 2009
Workplace Health and Safety Act 1995 (Tasmania)
Sex Discrimination Act 1984 (Cth);
Racial Discrimination Act 1975 (Cth);
Disability Discrimination Act 1992 (Cth);
Age Discrimination Act 2004 (Cth);
Australian Human Rights Commission Act 1986 (Cth).

Review History

Policy Reviewed By:	Tim Short	CEO	September 2023
POLICY REVIEWED	September 2023	NEXT REVIEW DATE	September 2026
Modifications	<ul style="list-style-type: none">• New Policy		
POLICY REVIEWED	PREVIOUS MODIFICATIONS		NEXT REVIEW DATE
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Signed

CEO:	
Manager:	