

**DISCRIMINATION, HARASSMENT AND BULLYING PREVENTION
Governance Policy**Document ID:

1. PURPOSE

This Policy sets out Geelong Cemeteries Trust's (GCT) expectations about how staff behave with the aim of preventing unlawful discrimination, harassment, bullying, adverse action, vilification and victimisation.

This Policy describes the expectations of staff, how to speak up, the support available and the consequences for breaching this Policy.

GCT is committed to creating a safe, diverse and inclusive place to work and all staff are responsible for their own conduct and are required to take reasonable care that their acts or omissions do not adversely affect the health, safety, and wellbeing of others in the workplace, including when working from home and at work-related events.

Discrimination, harassment and bullying constitute a breach of GCT's Code of Conduct. These behaviours are not in accordance with GCT's Values of Responsiveness, Integrity, Accountability, Respect, Environmental Responsibility, Leadership, Inclusivity, and Human Rights.

This Policy should be read in conjunction with other GCT policies and procedures that outline our commitment to expected behaviours and conduct, implemented through relevant codes, policies, and procedures outlined in Section 18 – Legislation and Supporting Documents.

2. SCOPE

This policy applies to:

- All persons who perform work for or on behalf of GCT, including Board Members, employees, contractors, consultants, contingent labour hire and community advisory members. For the purpose of this policy, a reference to staff is a reference to each of these persons.
- The Workplace is not limited to GCT's premise nor to normal working hours. It includes any place where work is carried out for GCT or any place where staff go while at work, including work functions and events, during work-related travel, and via electronic communication and social media, including out of hours communication.

3. OBJECTIVES:

Guiding objectives for this Policy are:

- Regardless of position, all staff are responsible for, and must actively ensure, they treat others, lawfully and with dignity, courtesy and respect.
- Recruitment and selection decisions are to be based on merit and not affected by protected personal attributes.
- Complaints or concerns about alleged discrimination, harassment, bullying, and victimisation will be taken seriously and all parties will be treated with respect. Additionally, complaints will be handled impartially, confidentially (as far as is reasonably practicable), and will be acted upon in a timely manner.

**DISCRIMINATION, HARASSMENT AND BULLYING PREVENTION
Governance Policy**

Document ID:

- GCT is committed to providing an environment that is safe to speak up and provide a process that staff can have confidence in when raising a concern or complaint.
- Regardless of position, GCT will hold all staff to account by taking appropriate action if it is found they have engaged in discrimination, harassment, bullying, vilification or victimisation. Such action may include, without limitation, counselling, a warning, termination of employment or contractor engagement.

4. WHAT IS UNLAWFUL DISCRIMINATION?

Discrimination is any practice that makes distinctions between individuals or groups that disadvantages some people and / or advantages others.

It is against the law to discriminate against someone on prohibited grounds, including:

- actual age, breastfeeding, carers' responsibilities, subjection to domestic or family violence, disability, family responsibilities, gender or gender identity (including transgender), intersex status, marital or relationship status, parental status, physical appearance, political opinion, pregnancy or a potential pregnancy, raising health and safety concerns or performing legitimate safety related functions, race, nationality or ethnic origin, religious beliefs or activity, sexuality or sexual orientation, social origin, union membership or protected industrial activity.

4.1 Unlawful discrimination can occur:

- at any time during the employment cycle for example, during recruitment, employment, leave, dismissal and retrenchment.
- even if it is not intended.
- when interacting with other staff, including prospective employees.

4.2 There are two forms of unlawful discrimination:

- direct discrimination is when someone is treated less favourably in their employment due to one of the prohibited grounds. For example, not hiring someone because of their age, or race, or use of personal/carers leave, etc.
- indirect discrimination is when there is a requirement, condition, policy or rule which appears to be the same for everyone but has an unfair and unreasonable effect on people who share a particular attribute that is protected by law. For example, only employing persons of a certain height may be indirectly discriminating against women, who are on average, shorter than men.

5. WHAT IS HARASSMENT?

Harassment is behaviour, which is unreasonable, uninvited and unwelcome that a reasonable person would consider:

- offends, humiliates, intimidates or threatens another person, or
- makes the workplace uncomfortable and hostile for others.

It is against the law to harass someone on the same prohibited grounds listed above (Clause 4.2) for unlawful discrimination.

Harassment may occur as a single act, or as a series of incidents, persistent innuendos or threats. Harassment does not have to be directed to a particular person to be unlawful. Behaviour which creates a hostile working environment for other people can also be unlawful. For example, people overhearing a conversation have a right to complain if they are offended.

5.1 Sexual Harassment

For information and expectations about sexual harassment, sex-based harassment and conduct that creates a hostile work environment on the grounds of sex refer to the Sexual Harassment Prevention - Governance Policy.

5.2 LGBTQIA+ Status Harassment

This involves harassment that targets an individual or group based on sexual orientation or gender identity. This includes homophobia and transphobia.

Examples of LGBTQIA+ harassment include:

- making hurtful, derogatory or unwanted comments about a staff member's sexual orientation, such as to a person who is bisexual
- knowingly misgendering a person's gender identity, such as towards a staff member who has affirmed their gender
- initiating gossip at work, or innuendo, such as towards someone who is intersex
- using discriminatory or hurtful language in conversations, even when not directed to a specific person.

5.3 Racial Hatred

It is unlawful to do or say something in public that harasses a person or group because of their race, colour, or national or ethnic origin. Racial hatred can take many forms including threats, abuse, gestures, insults, taunts and posting offensive material on social media. Examples include making racially based jokes, calling people racial names or making racial slurs and remarks.

6. WHAT IS BULLYING?

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

Bullying behaviour does not need to be based on a prohibited ground of discrimination, such as gender or gender identity, disability, race, or age. A person might be bullied for any reason.

Generally, for conduct to constitute bullying, it must be repeated. A 'one-off' incident would not normally constitute bullying but should not be ignored as it may constitute another form of unacceptable conduct. Bullying can consist of a range of unreasonable behaviours over time.

Bullying can be intentional or unintentional. The test is whether a reasonable person, considering the circumstances, may see the behaviour as unreasonable.

Bullying can occur in different forms including physically, verbally, in writing or through electronic communications (e.g., phone, email, text/instant messaging and social media), and can range from very obvious direct verbal or physical assault to very subtle psychological abuse.

Examples of direct bullying may include:

- abusive behaviour towards another staff member such as threatening gestures or physical violence.
- aggressive or abusive or offensive language or comments, including threats or shouting.
- demeaning remarks.
- constant unreasonable and unconstructive criticism.

Examples of subtle bullying may include:

- deliberate exclusion, isolation or alienation of a staff member from normal work interaction, such as intentionally excluding them from meetings or work activities.
- setting tasks or deadlines that are unreasonable.
- spreading misinformation or malicious rumours or undermining another staff member, including encouraging others to 'gang up' on them.
- deliberately changing work arrangements such as rosters and leave to deliberately inconvenience a particular staff member.
- denying or withholding access to information, supervision, consultation or resources such that it causes a detriment to the staff member.
- excessive scrutiny at work.

6.2 What is not bullying?

Not all workplace conflicts will constitute bullying. Differences of opinion and disagreements will generally not be considered bullying.

Reasonable management action taken in a reasonable way is also not bullying. It is reasonable for management to allocate work and to give fair and reasonable feedback on an employee's performance.

Examples of reasonable management action include:

- setting reasonable performance goals, standards and deadlines.
- regular coaching and feedback on performance and/or behaviour.
- giving lawful instructions about the performance of duties or exercising reasonable supervision.
- implementing organisational changes or restructuring and/or transferring an employee for operational reasons.
- not selecting an employee for promotion where a reasonable process is followed.
- taking disciplinary action for misconduct including suspension or termination of employment or managing unsatisfactory performance.

7. WHAT IS VILIFICATION?

Vilification is a very serious breach of the law (if it is intentional, it may also constitute a criminal offence) and is not tolerated by GCT. It means doing or saying something in public that creates, encourages or incites hatred, serious contempt, revulsion or serious ridicule for a person or group of people on a ground(s) which is unlawful under relevant Federal / State / Territory legislation.

Such grounds include:

- race, ethnic background, or language, including sign language.
- religious beliefs, affiliation or activity (or lack thereof).
- condition relating to health.
- gender or gender identity including being transgender or non-binary.
- sexuality, such as someone identifying as gay, lesbian or bisexual.
- disability status.
- age.
- relationship or marital status, parental status, family responsibilities, or carer responsibilities.
- pregnancy or breastfeeding.
- political opinion, affiliation or activity.
- trade union or employer association activity.
- subjection to domestic and family violence.
- accommodation status.

- employment status.
- lawful sexual activity.
- irrelevant medical or criminal records.

An example of vilification is making severely contemptuous and highly offensive statements about a particular race in a team meeting.

8. WHAT IS VICTIMISATION?

Victimisation occurs when a person subjects, or threatens to subject, another person to a detriment (including when someone is retaliated against, subjected to pressure, adverse comment, isolation or other detrimental behaviour) because they:

- raised, or are considering raising a complaint about discrimination, harassment (including sexual harassment or sex-based harassment), conduct which creates a hostile work environment, bullying, victimisation or vilification
- are part of a complaint made by someone else (including being a witness or providing information)
- supported someone else who has made a complaint.

An example of victimisation is excluding or isolating someone from a training opportunity because they have lodged a complaint.

In some circumstances, victimisation may also be against the law.

To avoid doubt, Vexatious Claims are not protected and a person who makes a Vexatious Claim may be subject to disciplinary action, up to and including the termination of their employment or their contractor engagement with GCT.

9. SPEAKING UP

9.1 Formally raising a concern

GCT strongly encourages staff who believe they have experienced or have witnessed unacceptable behaviours to report the behaviour.

Concerns about discrimination, harassment bullying, vilification, victimisation or other unlawful conduct relating to a member of staff can be raised to executive leadership, management or human resources.

GCT will consult with the complainant on how to address their concerns and take into account the outcome the complainant is seeking. GCT will also, to the extent possible, take steps to preserve a complainant's anonymity if this is their preference. However, GCT may form the view that it is necessary to conduct a formal investigation into a complainant's concerns and/or to refer the matter to an external body.

Where this is the case, GCT will consult with the complainant on how the investigation is conducted (this may involve a formal interview with the complainant and witnesses) and take the complainant's preferences into account.

GCT will also discuss with the complainant any arrangements to support the complainant during the time the complainant's concern is being resolved (for example, working from home or at another location).

Staff are encouraged to make timely reports, while being reassured they will not be treated unfairly because of any delay in reporting unacceptable behaviours.

9.2 Bystander

GCT strongly encourages and supports bystanders to call out and report unacceptable behaviours where it is safe for them to do so. Bystanders can be an important part of the solution. A supportive bystander will act to protect the rights of others. A supportive bystander will use words and/or actions that can help someone who is being sexually harassed. If bystanders are confident to take safe and effective action to support victims, then there is a greater possibility that the sexual harassment can stop and that the impact of the behaviours on the victim can be minimised.

10. SUPPORT

Staff who have experienced or witnessed unacceptable behaviours can access support by:

- speaking to a member of the executive team, management, human resources, health and safety officer or union representative to raise concerns, receive support and discuss options that could help resolve the issue.
- access the Employee Assistance Program (EAP) 1800 808 374
- seek advice from an external body:
 - Australian Human Rights Commission - 1300 656 419
 - Victorian Equal Opportunity and Human Rights Commission – 1300 292 153.

11. RISK MANAGEMENT APPROACH

Under the *Occupational Health and Safety Act 2004* (Vic) any workplace hazard that may exist in the workplace, such as discrimination, harassment and bullying, should be treated through a risk management approach. GCT has a responsibility to eliminate or minimise risk and will ensure potential risks are mitigated through the Risk Management Framework.

12. KNOWLEDGE AND EDUCATION

GCT will make sure management are trained to appropriately respond to disclosures of unacceptable behaviours, ensure all employees are trained to appropriately identify unacceptable behaviours, call out behaviours as active bystanders, and are aware of the reporting and response procedures.

DISCRIMINATION, HARASSMENT AND BULLYING PREVENTION Governance Policy

Document ID:

13. CONTINUOUS IMPROVEMENT

Implement appropriate reporting regimes to track relevant data for trends, patterns and lessons to drive continuous improvement.

People Matter Survey (PMS) contains questions aimed at understanding employee perceptions of the adequacy and success of Discrimination, Harassment and Bullying Prevention.

14. COMPLIANCE

Failure to comply with this Policy and other related procedures may amount to a breach of this Policy and lead to disciplinary action, up to and including termination of employment or the termination of a contractor's engagement. This Policy must be read together with the relevant procedures.

Staff may also be personally liable under Federal or State Legislation (including anti-discrimination legislation such as the *Equal Opportunity Act 2010 (Vic)* and GCT may also be vicariously liable (legally responsible) for the actions of a staff member.

15. ACCOUNTABILITY

For the purpose of this Policy:

Role	Accountability
Board	Is the Approving Authority of a Governance Policy within the Policy Framework.
	Act as anti-discriminative, anti-harassment and anti-bullying Ambassadors.
	Role model appropriate standards of behaviour and promote a work culture where discrimination, harassment and bullying are unacceptable.
Executive Performance, Remuneration and Governance Committee (EPRG Committee)	Provides independent assurance and assistance to the Board Chairperson and Chief Executive Officer (CEO) regarding this Policy.
Chief Executive Officer (CEO)	Role model appropriate standards of behaviour and promote a work culture where discrimination, harassment and bullying are unacceptable.
	Accountable for ensuring legislation obligations under this Policy.
	Approves the Discrimination, Harassment and Bullying Prevention Action Plan.
	Appoint a person or persons to investigate allegations of discrimination, harassment and bullying and deciding on appropriate disciplinary action if the allegation is substantiated.
Human Resources	Is the Designated Officer for developing, reviewing and implementation this Policy.
	Develop the Discrimination, Harassment and Bullying Prevention Action Plan and provide strategic guidance.

DISCRIMINATION, HARASSMENT AND BULLYING PREVENTION Governance Policy

Document ID:

	Promote a work culture where discrimination, harassment and bullying are unacceptable by raising awareness of the Discrimination, Harassment and Bullying Prevention Action Plan.
Executive Leadership	Role model appropriate standards of behaviour; promote a work culture where discrimination, harassment and bullying are unacceptable by raising awareness of the Discrimination, Harassment and Bullying Prevention Action Plan; promoting a speak up culture.
	Take responsibility for the Discrimination, Harassment and Bullying Prevention Action Plan objectives, and fostering a psychologically, socially and culturally safe work environment.
Management	Role model appropriate standards of behaviour; promote a work culture where discrimination, harassment and bullying are unacceptable by raising awareness of the Discrimination, Harassment and Bullying Prevention Action Plan; promoting a speak up culture.
	Promptly addressing inappropriate behaviours in line with the Code of Conduct and any other relevant policies.
	Prioritise the care and support of those impacted when responding to issues raised with them or observed.
	Treat all reports of discrimination, harassment and bullying seriously and confidentially and take prompt action to address them (considering the wishes of the person subjected to the discrimination, harassment or bullying).
	Ensure staff who report alleged discrimination, harassment and bullying, lodge grievances or witness discrimination, harassment and bullying are not victimised or discriminated against.
Staff	Demonstrate high levels of personal conduct consistent with this Policy and their responsibilities under the Code of Conduct. This means you must treat other with dignity, courtesy and respect and not engage in discrimination, harassment, bullying and victimisation or condone this behaviour by others.
	Take reasonable care to ensure your own safety and health and avoid adversely affecting the safety and health of any other person through any conduct which is unlawful or may amount to a breach of this Policy.
	Offer support to staff who claim they are experiencing unacceptable behaviour, including providing information about how to make a complaint.
	Treat information in relation to claims of discrimination, harassment and bullying with appropriate confidentiality.
	Support the implementation of the Discrimination, Harassment and Bullying Prevention Action Plan through active engagement.

DISCRIMINATION, HARASSMENT AND BULLYING PREVENTION Governance Policy

Document ID:

	Speak up relating to unacceptable behaviour or if you witness discrimination, harassment, bullying, vilification or victimisation in the workplace.
--	---

16. DEFINITIONS

Term	Definition
Management	A term used to cover the job descriptions of manager, supervisors and team leaders.
Vexatious Claims	Where a complainant makes frivolous or malicious claim without basis against a respondent, such as where intentionally false or misleading information is provided, relevant information is withheld, facts are distorted or there is no demonstrated commitment to resolution.

17. LEGISLATION AND SUPPORTING DOCUMENTS

Legislation:	<i>Age Discrimination Act 2004 (Cth)</i> <i>Australian Human Rights Commission Act 1986 (Cth)</i> <i>Disability Discrimination Act 1992 (Cth)</i> <i>Equal Opportunity Act 2010 (Vic)</i> <i>Fair Work Act 2009 (Cth)</i> <i>Occupational Health and Safety Act 2004 (Vic)</i> <i>Racial Discrimination Act 1975 (Cth)</i> <i>Sex Discrimination Act 1984 (Cth)</i> <i>Work Health and Safety Act 2011 (Cth)</i>
Policy:	Code of Conduct – Governance Policy Health, Safety and Wellbeing – Governance Policy Sexual Harassment Prevention – Governance Policy
Procedure:	Individual Employee Grievance - Operational Procedure
Guidelines:	
Frameworks:	Risk Management Framework
Forms:	

18. VERSION CONTROL

Title:	Discrimination, Harassment and Bullying Prevention – Governance Policy
Document ID:	1
Version Control:	1
Audience:	Staff
Category:	People and Culture
Subcategory:	
Effective Date:	23/04/2024
Review Date:	30/04/2025
Designated Officer:	Chief Executive Officer
Approval Authority:	Board