



DAME NELLIE MELBA  
KINDERGARTEN  
EST 1915

# **Prevention of Harrasment and Bullying Policy**

Mandatory– Quality Area 7



## PURPOSE

The purpose of this policy is to provide a safe and inclusive environment for all children, families, staff, and volunteers within DNМК . DNМК does not tolerate any form of workplace harassment or bullying, this policy sets out the process which is to be followed should any instances of workplace bullying be reported.

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## POLICY STATEMENT

### VALUES

DNМК is committed to:

- providing and maintaining a working environment that is safe and free of health risks, so far as is reasonably practicable.
- acting on a positive duty to identify, manage and control, as so far as reasonably practicable, psychosocial risks and hazards
- acting on our duty of care to ensure the health and well-being of our staff, including monitoring conditions and health at the workplace
- promoting the cultural safety of Aboriginal and Torres Strait Islander communities/people, people from culturally and linguistically diverse backgrounds, people with a disability, LGBTQIA+ people and other diverse communities
- practicing zero tolerance of harassment and workplace bullying
- prevent unlawful discrimination, including acting on our positive duty to eliminate sex discrimination, sexual harassment, and victimisation as far as is reasonably practicable.
- Encouraging the reporting of behaviour which breaches this policy
- ensuring persons are free from a hostile work environment based on sex or other protected attributes
- handling all harassment or bullying complaints in a confidential and procedurally fair manner, including protection from victimisation or reprisals for person reporting
- ensuring that all parties will be treated with respect.
- ensuring the person against whom the allegation is made has the right to natural justice.

### SCOPE

This policy applies to the approved provider, persons with management or control, nominated supervisor, persons in day-to-day charge, early childhood teachers, educators, staff, students, volunteers, parents/guardians, and others attending the programs and activities of DNМК , including during offsite excursions and activities.

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<b>RESPONSIBILITIES</b>	Approved provider and persons with management or control	Nominated supervisor and persons in day-to-day charge	Early childhood teacher, educators and all other staff	Parents/guardians	Contractors, volunteers and students
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R indicates legislation requirement, and should not be deleted					
Ensuring the <i>Prevention of Harassment and Bullying and Policy</i> is adhered to at all times	R	√	√	√	√
Ensuring staff understand that they have a legal responsibility to care for their own health and safety and that of co-workers, and must not engage in acts which constitute bullying or behaviour	√	√	√		
Co-operating and complying with this policy and any other relevant policy	√	√	√	√	√
Following instructions given by their direct report relating to the prevention of workplace injuries and illnesses.		√	√		√
Ensuring that acceptable standards of conduct are observed at all times, including a zero tolerance of any behaviour that may constitute bullying, harassment, vilification or discrimination	R	√	√		
Implementing measures to prevent workplace bullying which includes monitoring the work environment to ensure acceptable standards of conduct are observed at all times.	R	√			
Taking early corrective action to deal with behaviour that may be inappropriate, offensive or intimidating, even if a complaint has not been made	√	√			
Taking all reasonable steps to eliminate harassment and bullying so far as is reasonably practicable ( <i>Refer to the Compliments and Complaints Policy</i> )	√	√			
Ensuring that all applicable occupational health and safety (OHS) legislation is observed ( <i>Refer to Legislations and Standards</i> )	R	√			
Ensuring that incidences of bullying are reported ( <i>refer to Staff Grievances and Dispute Resolution Policy, Attachment 1: Staff Grievances and Dispute Resolution Procedures Guidelines</i> )	R	√	√		√
Ensuring that all employees and volunteers are regularly educated and made aware of their obligations and responsibilities in relation to providing a workplace free from harassment and bullying	√	√			
Providing an environment which discourages harassment and bullying, and setting an example by their own behaviour	R	√			
Ensuring that all complaints are treated seriously and confidentially ( <i>refer to Staff Grievances and Dispute Resolution Policy, Attachment 1: Staff Grievances and Dispute Resolution Procedures Guidelines</i> )	R	√			
As far as practicable being aware of whether harassment and bullying is occurring, whether complaints are received or not, relying on such indices as: <ul style="list-style-type: none"> <li>• sudden increases in absenteeism</li> <li>• unexplained requests for transfers</li> <li>• behavioural changes such as signs of depression</li> <li>• sudden deterioration in work performance</li> </ul>	√	√			
Taking immediate and appropriate action if they become aware of any harassment, bullying or offensive behaviour ( <i>refer to Staff Grievances and Dispute Resolution Policy, Attachment 1: Staff Grievances and Dispute Resolution Procedures Guidelines</i> )	R	√			

Taking responsibility to ensure they do not promote or engage in bullying and otherwise take reasonable care that their acts or omissions do not adversely affect the health, wellbeing, and safety of other people	√	√	√	√	√
Ensuring any reported allegations of workplace harassment or bullying are promptly, thoroughly, and fairly investigated	R	√			
Ensuring guidance and education is provided, where requested and/or appropriate, to cases and subsequent decisions relating to harassment or bullying	√	√			
Providing ongoing support and guidance to management, employees, students and volunteers in relation to the prevention of harassment or bullying	√	√			
Ensuring this policy is displayed in the workplace and easily accessible to all workers and volunteers	√	√			

## BACKGROUND AND LEGISLATION

### BACKGROUND

Harassment and bullying in the workplace may have an adverse effect on a person's health and work performance. Additionally, it can increase expenses, staff turnover, absenteeism, and poor morale as well as cause productivity loss.

As an approved provider, you have a duty under the OHS Act to provide and maintain for your employees, so far as is practicable (*refer to Sources*), a working environment that is safe and without risks to health. This duty includes providing and maintaining systems of work that are, so far as is reasonably practicable, safe and without risks to health.

The approved provider has a responsibility to identify hazards and assess associated risks that may lead to workplace harassment and bullying. The best approach to deal with risks to health and safety associated with workplace harassment and bullying is to implement appropriate measures in the workplace.

Preventing workplace bullying relies heavily on the workplace culture. The workplace culture establishes the norms and values that dictate behaviour within an organisation, and everyone contributes to it. However, management plays a particularly influential role in shaping the culture and has a greater responsibility to promote a positive environment. One of the key factors in preventing workplace bullying is senior management's commitment to identify, prevent, and respond to such behaviour, thereby managing psychological risks.

Effective leaders model the organisation's values and standards for workplace behaviour, which sends a clear message to employees that bullying will not be tolerated. Employers and managers can establish the desired workplace culture through training, role modelling, and prompt intervention when undesired behaviours occur. What employers and managers say and do has a significant impact on the workplace culture.

To promote a positive workplace culture and prevent bullying, the workplace policy should be communicated and promoted to all employees. This can be done through various channels, including notice boards, team meetings, the intranet, and regular discussion with team members.

### LEGISLATION AND STANDARDS

Relevant legislation and standards include but are not limited to:

- Equal Opportunity Act 2010 (Vic)
- Racial and Religious Tolerance Act 2001 (Vic)
- Sex Discrimination Act 1984 (Cth)

- Racial Discrimination Act 1975 (Cth)
- Disability Discrimination Act 1992 (Cth)
- Human Rights and Equal Opportunity Commission Act 1986 (Cth)
- Fair Work Act 2009 (Cth)
- Fair Work Regulations 2009 (Cth)
- Occupational Health and Safety Act 2004 (Vic)
- Sex Discrimination and Fair Work (Respect at Work) Amendment Act 2021 (Cth)
- Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Act 2022 (Cth)
- Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022 (Cth)

The most current amendments to listed legislation can be found at:

- Victorian Legislation – Victorian Law Today: [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au)
- Commonwealth Legislation – Federal Register of Legislation: [www.legislation.gov.au](http://www.legislation.gov.au)

## DEFINITIONS

The terms defined in this section relate specifically to this policy. For regularly used terms e.g., Approved provider, Nominated supervisor, Notifiable complaints, Serious incidents, Duty of care, etc. refer to the Definitions Attachment.

**Adverse action:** Occurs when an employer takes or threatens to take harmful or discriminatory action (referred to as adverse action under the *Fair Work Act 2009*) against an employee, or a prospective employee, based on a protected attribute (*Refer to the Definitions*) or prohibited reason. A prohibited reason includes workplace rights (employment entitlements), industrial association or activities, long periods of sick leave (temporary illness or injury), and/or sham contracting.

**Bullying:** Is repeated and unreasonable behaviour directed towards a person or group of persons that creates a risk to health and safety. It includes conduct that could be expected to intimidate, offend, degrade, humiliate, undermine, or threaten. Bullying also includes systematic/repetitive physical and/or psychological abuse. Bullying is defined as workplace bullying when it occurs within the context of an employee or individual work environment

**Discrimination:** Refers to the unjust or prejudicial treatment of individuals or groups based on certain characteristics referred to as protected attributes (*Refer to the Definitions*). Unlawful discrimination can manifest in various forms, including but not limited to direct actions, policies, practices, or systemic biases that result in unequal treatment or disadvantage for certain individuals or groups. Discrimination is unlawful under various state and federal anti-discrimination legislation, as listed above, including protections against discrimination in the workplace. Employers are also prohibited from taking 'adverse action (*Refer to Definitions*) against an employee, or a prospective employee on the basis of a protected attribute or other grounds (such as industrial association, a temporary illness or injury, and sham contracting) under the Act

**Harassment:** Includes, but is not limited to, unwanted, unsolicited, unwelcome behaviour that is offensive, embarrassing, intimidating, or humiliating. For the purpose of this policy, harassment will include sexual and other forms of harassment (including workplace sexual harassment)

**Psychosocial risk (hazard):** A psychosocial hazard is a hazard that arises from systems of work, the design, layout and environment of a workplace, interactions, and behaviours (which can include a toxic workplace culture or sexual harassment), or the guidance of supervision provided to employees, to the extent that these factors may cause psychological harm. Common psychosocial risks may include

overworked employees, jobs involving unreasonable demands, chronically working long hours, or working remotely without much communication or support from management

**Protected attribute:** Under the *Fair Work Act 2009*, employees and prospective employees have the right to be free from discrimination on the basis of race, colour, gender, sexual orientation, physical or mental disability, marital status, family or caring responsibilities, pregnancy, religion, political opinion, national or social origin, breastfeeding, gender identity and/or intersex status

**Reasonable management action (workplace bullying):** The *Fair Work Act* provides that an employee is not considered to be bullied by their employer (or management) when reasonable management action is or will be taken. Management actions must be conducted appropriately and reasonably and include, and are not limited to:

- providing fair and constructive feedback on performance or conduct
- responding to poor performance, including performance management processes
- conducting necessary disciplinary meetings or disciplinary action
- directing and controlling how work is carried out.

**Sexual harassment:** Under the *Sex Discrimination Act 1984* and the *Equal Opportunity Act 2010*, sexual harassment refers to unwanted, unwelcome behaviour of a sexual nature that is offensive, embarrassing, intimidating, or humiliating. Sexual harassment can involve physical contact or suggestive behaviour or comments, propositioning and unnecessary and/or unwelcome familiarity.

**Unreasonable behaviour:** Means behaviour that a reasonable person, having regard to all of the circumstances, would expect to victimise, humiliate, undermine, or threaten. Examples of behaviour, whether intentional or unintentional, that may be considered to be workplace bullying if they are repeated, unreasonable and create a risk to health and safety include but are not limited to:

- abusive, insulting or offensive language,
- belittling or humiliating comments, including practical jokes or initiation rituals
- victimisation, threats, or coercion
- aggressive or intimidating conduct
- making vexatious allegations against another employee or group of employees
- unjustified criticism or complaints
- deliberately excluding someone from workplace conversations/activities
- withholding information that is vital for effective work performance
- setting unreasonable timelines or constantly changing deadlines
- 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 the worker
- spreading misinformation or malicious rumours
- conducting a workplace investigation in a grossly unfair manner
- changing work arrangements such as rosters and leave to deliberately inconvenience a particular employee or employees.

**Workplace bullying:** As defined under the *Fair Work Act 2009*, workplace bullying is repeated, unreasonable behaviour directed towards a worker, or group of workers, that creates a risk to health or safety. Reasonable management action conducted in a reasonable manner does not constitute workplace bullying. Workplace bullying can be carried out in various ways, including through email, text, or social media channels. Workplace bullying can occur between employees (sideways), from managers to employees (downwards), or from employees to supervisors/managers (upwards)

**Workplace investigator:** An external individual who is responsible for conducting impartial and objective investigations into workplace incidents, complaints, or alleged misconduct. They are typically appointed by an employer/approved provider or assigned by a designated authority within the organisation to gather relevant information, interview witnesses, review evidence, and make findings and recommendations based on their investigation.

**Workplace investigation:** The purpose of a workplace investigation is to thoroughly examine the allegations, determine the truth, and make informed decisions regarding appropriate actions,

including disciplinary measures or corrective actions. The investigation process involves gathering evidence, interviewing relevant individuals, reviewing documents or records, and assessing the credibility of the information provided. The investigator remains impartial and objective throughout the process, ensuring a fair and unbiased examination of the situation.

**Workplace sexual harassment:** The terms 'sexually harassed at work' and 'sexual harassment' are also defined under the *Fair Work Act 2009* and include prohibitions on a person making an unwelcome sexual advance, an unwelcome request for sexual favours, or unwelcome conduct of a sexual nature to a person harassed in connection with work

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## SOURCES AND RELATED POLICIES

### SOURCES

- Prevention of Bullying and Violence at Work: [www.worksafe.vic.gov.au](http://www.worksafe.vic.gov.au)
- Victorian Equal Opportunity and Human Rights Commission: [www.humanrights.vic.gov.au](http://www.humanrights.vic.gov.au)
- Victorian Ombudsman for breaches of the Charter of Human Rights and Responsibilities Act 2006: [www.ombudsman.vic.gov.au/complaints/human-rights/](http://www.ombudsman.vic.gov.au/complaints/human-rights/)
- Protection from discrimination at work. Fair Work Ombudsman: Protection from discrimination at work - Fair Work Ombudsman: [www.fairwork.gov.au/employment-conditions/protections-at-work/protection-from-discrimination-at-work](http://www.fairwork.gov.au/employment-conditions/protections-at-work/protection-from-discrimination-at-work)
- What is sexual harassment in connection with work? Fair Work Commission. : [www.fwc.gov.au/issues-we-help/sexual-harassment/sexual-harassment-commencing-6-march-2023/what-sexual-harassment](http://www.fwc.gov.au/issues-we-help/sexual-harassment/sexual-harassment-commencing-6-march-2023/what-sexual-harassment)
- Effectively preventing and responding to sexual harassment: A code of practice for employers: [humanrights.gov.au/our-work/sex-discrimination/publications/effectively-preventing-and-responding-sexual-harassment-0](http://humanrights.gov.au/our-work/sex-discrimination/publications/effectively-preventing-and-responding-sexual-harassment-0)
- What is adverse action? What is adverse action? | Fair Work Commission: [www.fwc.gov.au/job-loss-or-dismissal/dismissal-under-general-protections/about-general-protections/what-adverse](http://www.fwc.gov.au/job-loss-or-dismissal/dismissal-under-general-protections/about-general-protections/what-adverse)
- Occupational Health and Safety Amendment (Psychological Health) Regulations: [www.worksafe.vic.gov.au/occupational-health-and-safety-amendment-psychological-health-regulations](http://www.worksafe.vic.gov.au/occupational-health-and-safety-amendment-psychological-health-regulations)

### RELATED POLICIES

- Code of Conduct
- Compliments and Complaints
- Staffing
- Staff Grievances and Dispute Resolution
- Occupational Health and Safety
- Occupational Violence and Aggression
- Whistleblower

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## EVALUATION

In order to assess whether the values and purposes of the policy have been achieved, the approved provider will:

- regularly seek feedback from persons affected by the policy regarding its effectiveness
- review the effectiveness of the policy and procedures to ensure that all complaints have been dealt with in a fair and timely manner
- keep the policy up to date with current legislation, research, policy and best practice
- revise the policy and procedures as part of the service's policy review cycle, or as required



- notifying all stakeholders affected by this policy at least 14 days before making any significant changes to this policy or its procedures, unless a lesser period is necessary due to risk (*Regulation 172 (2)*).
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## ATTACHMENTS

- Attachment 1: General Definitions
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## AUTHORISATION

This policy was adopted by the approved provider of DNMK on Sept 23

**REVIEW DATE:** September 2026



## Attachment 1

### General Policy Definitions

**Approved Provider:** An individual or organisation that has completed an application and been approved by the Regulatory Authority as fit and proper (in accordance with Sections 12, 13 and 14 of the National Law) to operate one or more education and care services. Where the applicant is an organisation, each person with management and control (see definition below) of that organisation must complete a separate application form. (Note: Under the Education and Care Services National Law Act 2010, Section 5, Definitions:” **person with management or control**, in relation to an education and care service, means – (b) if the provider of the service is an eligible association, each member of the executive committee of the association who has the responsibility, alone or with others, for managing the delivery of the education and care service”.)

**Australian Children’s Education and Care Quality Authority (ACECQA):** The national authority established to oversee the National Quality Framework and guide its implementation in a consistent way throughout Australia.

**Department of Education and Training (DET):** The Victorian State Government department with Primary responsibility for the approval, monitoring and quality assessment of services in Victoria in accordance with the national legislative framework and in relation to the *National Quality Standards*

**Early childhood teacher:** A person with an approved early childhood teaching qualification as listed on the ACECQA website [www.acecqa.gov.au](http://www.acecqa.gov.au)

**Educational Leader:** The Approved Provider of an education and care service must designate, in writing, a suitably qualified and experienced educator, coordinator or other individual to lead the development and implementation of education programs at the service (Regulation 118). This person must have a thorough understanding of the Early Years Learning Framework (or other approved learning framework), be able to guide other educators in their planning and reflection, and mentor colleagues in their implementation practices.

**Educator:** An individual who is qualified to provide education and care for children as part of an education and care service.

**Learning frameworks:** Under the National Quality Framework (NQF), education and care services are required to ensure that the program delivered to all children being cared for and educated by the service is based on and delivered in a manner that accords with an approved learning framework. In Victoria, the approved frameworks are:

- ☐ *Early Years Learning Framework (EYLF)*
- ☐ *Victorian Early Years Learning and Development Framework (VEYLDF)*
- ☐ *My Time, Our Place: Framework for School Age Care in Australia.*

**National Law:** Refers to the *Education and Care Services National Law Act 2010*: the national law regulating education and care services for children.

**National Quality Framework (NQF):** This framework for the early childhood education and care sector helps providers to improve the quality of services in areas that impact on a child’s development. The framework includes:

- ☐ a National Law – the Education and Care Services National Law Act 2010
- ☐ National Regulations – the Education and Care Services National Regulations 2011 (please check online to ensure the most current version is being used)
- ☐ the National Quality Standard
- ☐ an assessment and rating system
- ☐ a Regulatory Authority in each state and territory with primary responsibility for the approval, monitoring and quality assessment of services in their jurisdiction in accordance with the national legislative framework and in relation to the National Quality Standard
- ☐ the Australian Children’s Education and Care Quality Authority (ACECQA). The national body responsible for providing oversight of the system and ensuring consistency of approach.

**National Quality Standard (NQS):** The NQS sets a National benchmark for the quality of children’s education and care services. The NQS is comprised of guiding principles, quality areas, standards and elements. There are seven quality areas which capture aspects critical to the provision of quality education and care.

**National Regulations:** Refers to the *Education and Care Services National Regulations 2011*: the regulations or rules under which education and care services must operate. The regulations are the way in which the law is applied.

**Nominated Supervisor:** A person who has been nominated by the Approved Provider of the service under Part 3 of the Act and who has consented to that nomination in writing can be the Nominated Supervisor. All services must have a Nominated Supervisor with responsibility for the service in accordance with the National Regulations. The Approved Provider must take reasonable steps to ensure that the Nominated Supervisor is a fit and proper person (in accordance with Sections 12, 13 and 14 of the National Law), with suitable skills, qualifications and experience. The Regulatory Authority must be notified if the Nominated Supervisor for the service changes, or is no longer employed at the service.

**Person with management or control:** Means— (a) if the provider or intended provider of the service is a body corporate, an officer of the body corporate within the meaning of the Corporations Act 2001 of the Commonwealth who is responsible for managing the delivery of the education and care service; or (b) if the provider of the service is an eligible association, each member of the executive committee of the association who has the responsibility, alone or with others, for managing the delivery of the education and care service; or (c) if the provider of the service is a partnership, each partner who has the responsibility, alone or with others, for managing the delivery of the education and care service; or (d) in any other case, a person who has the responsibility, alone or with others, for managing the delivery of the education and care service (Note: Under the *Education and Care Services National Law Act 2010*, Section 5).

**Person in day-to-day charge:** A person is in day-to-day charge if (a) the person is placed in day-to-day charge by the approved provider or a nominated supervisor of the education and care service after meeting the definition for a service supervisor certificate: and (b) the person consents to the placement in writing (Regulation 54)

**Policy:** A formal statement of principles which provides a framework for decision-making and indicates the course of action to be taken in specific circumstances. Policies provide services with an approved way of operating in relation to particular matters and improve the management of risk. They reflect the values and beliefs of a service, current thinking, national standards and community expectations, and are relevant in terms of current laws and regulations.

**Procedures:** The steps required to implement and comply with a policy. Procedures specify how to achieve the necessary result by outlining who does what and when. Procedures are succinct, factual and to the point, and are generally expressed as a list.

**Program:** The group/activity in which a child is enrolled and which has specific hours of attendance.

**Regulatory Authority:** see definition for the Department of Education and Training.

**Responsible Person:** The Approved Provider (if that person is an individual, and in any other case the person with management or control of the service operated by the Approved Provider) or a Nominated Supervisor or person who has been placed in day-to-day charge of the service in accordance with the National Regulations.

**Service Supervisor Certificates:** On 1st November 2016 the National Regulations were amended to expand the classes of people who may be covered by a prescribed class supervisor certificate.

The new prescribed classes are set out in regulation 238A, and include a person who is:

- ☐ *responsible for day to day management of the service, or*
- ☐ *exercising supervisory and leadership responsibilities for part of the service, or*
- ☐ *a family day care coordinator*

Certificates issued for people working in one of these roles are referred to as “*service supervisor certificates*”.

Service supervisor certificates will not be issued to a particular person. Instead they may apply to any person working at the service who has been identified by the approved provider as working in one of the above roles.

For example, if the service director is responsible for day to day management of the service, they can be covered under the service supervisor certificate. Similarly, a room leader who is responsible for supervising part of the service can also be covered by the service supervisor certificate.

With this new flexibility, most individuals do not need to apply to the regulatory authority for a supervisor certificate.

Under these arrangements, a person is covered under the service supervisor certificate and may be a nominated supervisor if:

- ☐ the approved provider identifies that they meet the definition for a service supervisor certificate and
- ☐ they give their written consent to be the nominated supervisor (required under sections 35, 44 and regulation 56).

Nominated supervisors have specific obligations under the National Law (See Nominated Supervisors above).

A person is covered and may be placed in day to day charge of the service if:

- ☐ the approved provider or the nominated supervisor identifies that they meet the definition for a service supervisor certificate and
- ☐ they give their written consent to be placed in day to day charge of the service (required under regulation 54).

These arrangements apply for centre based and family day care services, and make it easier for providers to meet the requirements to ensure that:

- ☐ for centre based services, either the approved provider, nominated supervisor or certified supervisor in day to day charge is present at the service at all times the service is educating and caring for children (section 162) and
- ☐ for family day care services, either the approved provider, nominated supervisor or a certified supervisor in day to day charge is available at all times to support family day care educators

**Staff:** Any individual (other than the Nominated Supervisor or a volunteer) employed, appointed or engaged to work in or as part of an education and care service.