

# Equal Employment Opportunity Policy

## 1. Background

auDA wants all employees to enjoy a workplace which is fair and free from discrimination, harassment, vilification, bullying and victimisation. auDA is an equal opportunity employer and does not condone unlawful discrimination, bullying, harassment or any other type of inappropriate behaviour. This requires a minimum standard of conduct and performance to be agreed among, communicated to and acted upon by all employees.

## 2. Purpose

This policy has been designed to ensure that auDA maintains appropriate standards of behaviour, that all employees are treated fairly and equitably, that people are judged based on their performance, skills and abilities, and in so doing, that auDA complies with all applicable state and Commonwealth laws relevant to equal opportunity and affirmative action.

Individuals found to have breached this policy will be subject to appropriate disciplinary action, which may include dismissal, and/or they may be personally liable in relation to any legal claims resulting from their conduct. auDA may also be held vicariously liable for their conduct.

## 3. Relevant legislation

This policy is intended to operate in conjunction with any relevant Commonwealth and state and territory legislation applying to auDA and its employees. Where there is an inconsistency between any legislation and this policy, the relevant legislation will prevail.

Harassment, discrimination and bullying are prohibited under Commonwealth and state legislation including but not limited to:

- The Racial Discrimination Act 1975 (Cth)
- Sex Discrimination Act 1984 (Cth)
- Disability Discrimination Act 1992 (Cth)
- Age Discrimination Act 2004 (Cth)
- Workplace Gender Equality Act 2012 (Cth)
- Fair Work Act 2009 (Cth)
- Australian Human Rights and Equal Opportunity Commission Act 1986 (Cth)
- Workplace Relations Act 1996 (Cth)
- Equal Opportunity Act 2010 (Vic)
- Racial and Religious Tolerance Act 2001 (Vic)
- Occupational Health and Safety Act 2004 (Vic)
- Victorian Charter of Human Rights and Responsibilities 2006 (Vic).



## 4. Policy Scope

This policy applies to all employees of auDA. A reference to 'employee' for the purpose of this policy includes all auDA directors (while acting as such), employees, consultants and contractors.

This policy applies to all auDA business activities with suppliers, contractors and stakeholders.

Responsibility lies with every person covered by this policy to conduct themselves in accordance with it.

## 5. Guiding Principles

### Discrimination

Discrimination means treating a person, or group of people, unfavourably because the person or group has, is perceived to have, or is associated with someone who has, a particular attribute or characteristic.

### Indirect discrimination

Indirect discrimination may occur when an employer imposes a policy, requirement or condition which applies to everyone equally but in fact operates to disadvantage a particular group because of a characteristic of that group, such as their sex, age, race etc. (ie a prohibited ground of discrimination).

### Harassment

Harassment is unwanted and unwelcome behaviour towards or about a person (or group of people) which relates or refers to any of the protected attributes outlined in section 6 of this policy and which would be reasonably expected to humiliate, offend or intimidate that person (or group). Harassment is a form of discrimination, and sexual harassment is one type of harassment.

Harassment can be physical, verbal or in writing (such as via email or using social media sites). Harassment can occur regardless of gender. It can occur even if not intended: the important consideration is how the conduct is received by others.

Harassment may take the form of:

- victimisation
- coercion
- threats
- torment, intimidation, abuse or assault.



Harassment can include but is not limited to:

- unwelcome comments, offensive jokes, innuendo, nicknames
- displaying photos, written material or objects
- offensive emails, screen savers, gifts
- intrusive inquiries into a person's private life, including their religion, political beliefs and sexuality
- assault and rape (which, of course, are serious crimes).

Harassment includes conduct which:

- creates an intimidating, hostile or offensive work environment
- unreasonably interferes with an individual's work performance; or
- adversely affects an individual's employment opportunity.

### **Sexual harassment**

It is auDA policy to maintain professional standards of conduct so that sexual harassment does not occur in the workplace. Sexual harassment is against the law. Sexual harassment can be a one off occurrence as well as repeated behaviour.

Sexual harassment is unwanted, unwelcome behaviour of a sexual nature, which may occur in the workplace, at work functions or in other work-related settings. It can be verbal, physical or visual acts that are sexual in nature and that cause the recipient to be offended, embarrassed, humiliated or intimidated and that would be anticipated by a reasonable person to cause offence, humiliation, embarrassment or intimidation to the recipient. Innocent intent is irrelevant.

Examples of sexual harassment:

- making an unwelcome sexual advance
- making an unwelcome request for sexual favours
- sexually explicit conversations or jokes
- suggestive comments or innuendo
- suggestive behaviour, kissing, hugging or physical contact
- intrusive questions or insinuations about a person's private life
- staring or leering at a person or parts of their body
- displays of sexually graphic material
- viewing, transmitting or forwarding sexually offensive material, such as by computer, website, blog, social networking site, writing on a social media platform, phone call, email or text message; or
- engaging in any other unwelcome conduct of a sexual nature.



## **Vilification**

It is auDA policy to maintain professional standards of conduct so that vilification does not occur in the workplace.

Vilification is an activity in public which incites hatred, serious contempt for, or severe ridicule of a person because of the person's race or disability. Any racist incitement involving threat of physical harm to persons, or their property or premises is considered serious vilification.

Activity in public includes:

- any form of communication to the public, including speaking, writing, printing, displaying notices, broadcasting, screening and playing of tapes or other recorded material
- any conduct observable by the public, including actions and gestures and the wearing or display of clothing, signs, flags, emblems and insignia
- the distribution or dissemination of any matter to the public.

auDA will not tolerate vilification.

## **Workplace bullying**

It is auDA policy to maintain professional standards of conduct so that bullying does not occur in the workplace.

Workplace bullying is repeated unreasonable behaviour directed toward a team member or group of employees that creates a risk to health and safety. It includes behaviour that would reasonably be expected to intimidate, undermine, offend, degrade or humiliate a person. Bullying can occur whenever people work together. Bullying can be carried out verbally, physically or in writing (such as via email or using social media sites).

Bullying can occur between employees in the workplace, for example, one team member may bully another team member, or a group of employees may bully an individual. However, customers, clients and contractors may also bully employees.

The following types of behaviour where directed towards an individual and repeated, or occurring as part of a pattern of behaviour, could be considered to be bullying:

- demeaning language or verbal abuse
- threats, physical or verbal intimidation
- frequent outbursts of anger or aggression
- deliberately excluding or isolating employees
- "ganging up" on a team member
- deliberately giving employees impossible assignments
- deliberately changing work rosters to inconvenience particular employees
- deliberately withholding information that is vital for effective work performance.



This list is not exhaustive. Other types of behaviour may also constitute bullying.

auDA is committed to preventing bullying in the workplace. Such conduct is not acceptable under any circumstances.

### **What is not bullying?**

Reasonable management actions carried out in a fair way are not bullying. For example:

- Setting performance goals, standards and deadlines
- Rostering and allocation of working hours
- Allocating work to a worker
- Deciding not to select a team member for promotion
- Informing a team member about inappropriate behaviour
- Informing a team member about unsatisfactory work performance
- Performance Development process
- Disciplinary action
- Organisational change and restructuring
- Constructive feedback.

### **Reasonable Adjustments**

We will make reasonable adjustments in the workplace to allow people with disability or injury to work productively and safely.

## **6. Protected attributes**

It is unlawful to discriminate against a person because of the following attributes and characteristics:

- pregnancy or potential pregnancy, carer or parental status, including breast feeding and family responsibilities
- disability (including physical and mental disability, impairment, work related injury and medical conditions, or having a carer, accredited assistance animal or disability aid)
- gender identity, intersex status, transgender identity, sex, sexuality, sexual orientation, lawful sexual activity, marital and relationship status
- industrial activity (including union membership), political opinion, activity or association
- employment activity (such as requesting information about entitlements)
- race, colour, nationality, ethnicity and ethnic origin/descent, national extraction, or social origin
- physical features, age, religious belief, activity, or association; or
- personal association with someone who has, or is assumed to have, one of these attributes.



## **7. Equal Employment Opportunity**

auDA aims to:

- recruit and appoint the best qualified person for the available job where suitability will be assessed according to relevant criteria such as merit, including skills, education, qualifications, experience, abilities, prior work performance and aptitudes
- appraise, reward, and promote employees on the objective assessment of performance, achievement of agreed objectives, skills development, business performance and the individual's potential
- provide opportunities to employees for personal and professional development which are consistent with the organisation's objectives and individual's professional goals
- remove barriers which impede the potential of employees to achieve their professional goals within the organisation's objectives.

This policy recognises that there may be some exceptions where discrimination is lawful, for example, to ensure the safety of employees at work.

## **8. Work environment**

auDA asks that all employees maintain a professional attitude at all times and that their behaviour reflects auDA's values and culture. We may request that any non-verbal graphics, cartoons, posters, screen savers, or desk accessories etc. that are considered to be inappropriate to a professional office environment are removed.

## **9. Victimisation**

Complainants and witnesses are not to be victimised in any way regardless of whether the allegation is pursued, or a formal complaint is made. Victimisation includes threatening to subject another person to any detriment because that person has made an allegation of bullying, harassment, discrimination or vilification.

## **10. Confidentiality**

All employees are required to treat any complaints under this policy confidentially and discuss a complaint only to assist its resolution. Victimisation can occur when co-workers discuss and take sides on complaints about bullying, discriminatory or harassing behaviour. Employees are encouraged to come forward to obtain assistance to ensure any inappropriate conduct does not continue.



## 11. Employee Responsibilities

### Role of Employees

Every team member has a responsibility to treat all other employees with fairness and respect so that the total working environment is free from bullying, discrimination, harassment, vilification, and victimisation. Employees are required to adhere to HR processes that support creating a fair and respectful work environment. All employees have the responsibility to discourage inappropriate behaviour.

### Role of Managers

Managers should ensure that:

- all employees are aware of eeo principles and procedures
- all employees act in a non-discriminatory manner towards other employees
- early corrective action is taken to deal with bullying, discriminatory, vilifying or harassing behaviour
- they handle concerns promptly and professionally and provide support for their employees.

## 12. Complaints

auDA wishes to maintain a respectful work environment where everyone can reach their full potential.

Employees offended or concerned about another's conduct in the course of their employment are encouraged to raise that concern directly with the person at an appropriate time if they can. An employee approached by another team member with concerns about their conduct should appreciate the opportunity to consider whether they need to be more sensitive to others and modify their behaviour. Victimisation (even subtly) is prohibited.

Further, an employee with concerns or queries about this policy or wishing to make a formal complaint may contact their supervisor or manager. A formal process will usually be appropriate where an informal approach did not resolve the issue, or where the complaint involves serious allegations of misconduct.

If a formal complaint of bullying, harassment, discrimination or vilification is made, the following steps will typically be taken:

- The person making the complaint is interviewed and complaints and allegations are recorded in writing
- the allegation will be relayed to the person against whom the complaint is made
- the person against whom the complaint is made will be given an opportunity to respond to the allegations
- if there is a dispute over the facts, statements from any witnesses and other relevant information may be gathered



- a finding is made as to whether the complaint is substantiated.

Both the person making the complaint, and the person against whom the complaint is made, will be permitted to have a support person to accompany them to interviews or meetings regarding the complaint.

Mediation should be the first consideration in resolving a bullying complaint and is therefore strongly encouraged. However, this form of dispute resolution is appropriate only if the person making the complaint agrees.

#### **Action taken if a formal complaint is substantiated:**

If the claim is substantiated, disciplinary action may result. In determining the level of disciplinary action, account will be taken of the severity of the conduct, any previous incidents or warnings involving similar conduct and all other relevant factors. Such action may include:

- an apology
- changes to work practices
- a verbal or written warning
- disciplinary action, including termination of employment.

Any formal complaints under this policy will be treated seriously, sympathetically and confidentially and will be investigated thoroughly and impartially. auDA will take appropriate action to ensure that any bullying, harassment, discrimination or vilification found to exist is rectified and does not continue. Individuals found to have breached this policy will be subject to appropriate disciplinary action (which can include dismissal).

This policy will be applied consistently with applicable legislative Codes of Practice, as in operation from time to time.

### **13. Reporting suspected or actual breaches**

Reports can be made in the first instance to any of following:

- The auDA Employee's Manager
- The auDA Chief Executive Officer
- The Chief People and Culture Officer
- A member of the People and Culture Committee.

The policy requires any material breaches to be reported to the People and Culture Committee at the earliest opportunity.





## 14. Support and assistance

Support is available to all employees involved in reporting and managing a complaint even after the matter is resolved. Employees can access the Employee Assistance Program, the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) or the Australian Human Rights Commission (AHRC).

## 15. Related Documents

- Code of Conduct
- Workplace Grievance Resolution Procedure
- Sexual Harassment Policy
- Workplace Bullying & Harassment Policy
- EAP Policy
- Fair Work Ombudsman – Managing Underperformance

### 1. Document Control

**Owner:** Chief People and Culture Officer

**Committee/Board Review Function:** People & Culture Committee – Tier 1

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