

# EQUAL EMPLOYMENT OPPORTUNITY, BULLYING AND HARASSMENT – PROVIDING GOOD WORKING RELATIONSHIPS

Document Number	
Last Reviewed	<b>November 2019</b>
Next Review	<b>November 2020</b>
Responsible Officer	<b>Manager People, Culture &amp; Safety</b>
Applicable Legislation	<b>Fair Work Act 2009, Fair Work Regulations 2009 Racial Discrimination Act 1975, Sex Discrimination Act 1984, Disability Discrimination Act 1992, Human Rights and Equal Opportunity Commission Act 1986 and Spent Convictions Act 1988</b>
Relevant Policies	<b>Grievance Procedure</b>
Related Procedures	

## WAFC CORE VALUES

**Our People | Our Relationships | Being our very best | Leading our Industry**

### PURPOSE

The West Australian Football Commission (WAFC) has adopted an Equal Employment Opportunity Policy Statement confirming its commitment to actively promote the principles of equity and diversity in the workplace. This means that the WAFC aims to provide an environment that fosters good working relationships where everyone is treated fairly and equally, and that unlawful discrimination does not take place.

### POLICY DETAILS

This procedure explains in more detail the principles as they apply to the WAFC, and the following areas are covered:

- What is Equal Employment Opportunity?
- Discrimination, Harassment and Victimisation.
- Diversity and Code of Conduct for behaviour.
- Workplace bullying and violence.
- Who is responsible for EEO and good working relationships?
- Grievance procedure.

This procedure applies to all employees, contractors and volunteers.

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## 1. WHAT IS EQUAL EMPLOYMENT OPPORTUNITY?

Equal Opportunity is about giving everybody “a fair go”. In the workplace, EEO is about making sure all (prospective) employees, contractors, volunteers are valued and respected and that unlawful discrimination and harassment do not take place.

Under the Equal Opportunity legislation, everyone needs to be given access to employment, contract, promotion and training in a fair and equitable manner. Decisions on matters affecting appointments, promotions and training must be based on relevant experience, skills and the ability to meet minimum requirements, and no decisions will be made on the basis of nepotism and patronage.

The right to fair treatment is established by law under the Equal Opportunity Act (1984) – the Act. The Act claims to promote equal opportunity and eliminate discrimination, on the ground of:

- Age
- Family responsibility or status
- Gender history
- Impairment
- Marital status
- (Potential) Pregnancy
- Political conviction
- Pregnancy
- Race
- Religious conviction
- Sex/gender
- Sexual orientation

Anti discrimination is also covered under other legislation, including:

- Racial Discrimination Act 1975
- Sex Discrimination Act 1984
- Disability Discrimination Act 1992
- Human Rights and Equal Opportunity Commission Act 1986
- Spent Convictions Act 1988
- Under the Spent Convictions Act 1988, it is unlawful to discriminate against a person whose conviction has become spent under the Act in employment and work.

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## 2. DISCRIMINATION AND HARASSMENT

### 2.1 Discrimination

Discrimination can be direct or indirect.

Direct discrimination means that a person receives less favourable treatment than another person in same or similar circumstances on any of the grounds of unlawful discrimination. For example, when a person is denied a job or benefit on the ground of a personal characteristic irrelevant to the job.

Indirect discrimination occurs when an apparently neutral rule, policy or practice can, in effect, have an adverse impact on a particular group, and is not reasonable in the circumstances.

### 2.2 Harassment

Under the EEO legislation, harassment is also unlawful. Harassment is any unwelcome behaviour or language that has the effect of offending, intimidating or humiliating a person, including harassment due to their sex, race, age, impairment or one of the other attributes as covered in the Act.

Harassment makes the workplace unpleasant or intimidating and makes it difficult for the employee to work effectively. It does not matter that there is no deliberate intent to offend. Harassment based on race, gender or another personal attribute is a form of discrimination and as such is unlawful and totally unacceptable. Two common forms of harassment include sexual harassment and racial harassment.

### 2.3 Sexual Harassment

Sexual harassment includes unwelcome sexual advances, unwelcome requests for sexual favours and other unwelcome and sexually related behaviour. It applies to people who believe that they have been disadvantaged in some way when they made it clear that they objected to such behaviour or reasonably held a belief that they may have been disadvantaged if they objected (such as dismissal, demotion or denial of benefits). Sexual harassment has nothing to do with mutual attraction or friendship. It is about unwelcome sexually related behaviour. Some forms of sexual harassment are also criminal offences.

Examples of sexual harassment include, but are not limited to the following:

- Unwelcome comments about a person's sex life.
- Jokes, suggestive comments or offensive gestures related to a person's sexual characteristics.
- Displays of offensive posters, calendars, graffiti or computer graphics.
- Repeated (and unwanted) physical contact – touching, fondling or grabbing.
- Requests for sexual favours.
- Distribution of emails that may be regarded as offensive.

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## 2.4 Racial Harassment

Racial harassment includes threats, abuse, insults or taunts directed at a person's race or a characteristic that pertains generally to their race. It applies to people who believe that they have been disadvantaged in some way when they made it clear that they objected to such behaviour or reasonably held a belief that they may have been disadvantaged if they objected (such as dismissal, demotion or denial of benefits).

Examples of racial harassment include but are not limited to the following:

- Display of offensive racist posters, calendars, graffiti or computer graphics.
- Racist telephone calls or emails.
- Racist name-calling or deliberate gestures.
- Racist jokes.

The WAFC supports the right of every individual employee, volunteer, member of the public or any associated business to conduct their duties or business in an environment that is free from all forms of harassment.

Sexual and racial or other types of harassment will not be tolerated at the WAFC. Disciplinary action will be taken (and could include termination) against those responsible when it does occur.

## 2.5 Victimisation

It is against the law for anyone to threaten, harass or subject a person to a detriment because they have made a complaint or intend to make a complaint under the Act. This protection is also offered to anyone giving evidence about a complaint or asserting their rights or someone else's rights under the Act.

## 3. DIVERSITY AND CODE OF CONDUCT FOR BEHAVIOUR

Equal Opportunity is all about showing respect for other people's background, race, political status, sexual orientation or other personal attributes.

The WAFC recognises values and respects the social, cultural and linguistic diversity amongst employees, contractors, volunteers and the football community. The WAFC is committed to develop in the future special strategies to address diversity groups, including youth, seniors, people from culturally diverse backgrounds, Indigenous Australians, seniors and women.

Assistance will be provided to employees and volunteers with special needs to assist them in undertaking their roles effectively. The WAFC has a diverse workforce with employees from different cultural backgrounds.

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## 4. WORKPLACE BULLYING AND VIOLENCE

### 4.1 What is bullying?

Workplace bullying is a form of harassment. Bullying at the workplace is unacceptable, not only from an Equal Opportunity perspective, but also from an occupational safety and health perspective. The WAFC, has under the Occupational Safety and Health Act (1984) a duty of care to provide and maintain a work environment where their employees are not exposed to hazards. The employer must also ensure, as far as practicable, that the health of other people who are not employees is not harmed by the work. Bullying can be identified as a hazard and risk to safety and health.

Workplace bullying is repeated unreasonable or inappropriate behaviour, direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment, that is intimidating, insulting, offensive, demeaning or abusive to others. Examples of bullying include but are not limited to the following:

- Abusive, insulting or offensive language by one or more persons to another or others.
- Behaviour or language that frightens, humiliates, belittles or degrades, including criticism that is delivered with much yelling and screaming.
- Physical assault or threats.
- Excluding or isolating employees.
- Spreading misinformation or malicious rumours.
- Interfering with a person's personal effects or work equipment.
- Teasing or regularly making someone the brunt of pranks or practical jokes.

Bullying can be directed at a single worker or a group of workers and might be carried out by one or more workers. It can occur:

- **Downwards** (from managers or supervisors to workers);
- **Sideways** (between workers); or
- **Upwards** (from workers to supervisors or managers)

### 4.2 What is workplace violence?

Workplace violence is defined as any incident where an employee or staff member is physically attacked or threatened in the workplace. Some examples of workplace violence include:

- striking, kicking, scratching, biting, spitting or any other type of direct physical contact
- throwing objects
- attacking with knives, guns, clubs or any other type of weapon
- pushing, shoving, tripping or grabbing.

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Some forms of bullying and workplace violence, such as physical assault and stalking via email, may be criminal offences and in addition to having implications in the workplace, may result in action by the police.

## 4.3 Reasonable Management Action

Managers and supervisors have rights and obligations to take reasonable management action and make appropriate management decisions. They need to be able to effectively direct and control the way work is carried out, respond to poor performance and, if necessary, take disciplinary action. In doing so, managers and supervisors are not ‘bullying’, but undertaking their roles through reasonable and lawful direction of an employee’s performance and/or behaviour.

Examples of reasonable management action include (but not limited to):

- Setting reasonable performance goals, standards and deadlines.
- Rostering and allocating working hours where the requirements are reasonable.
- Reasonable allocation or re-allocation of work.
- A decision by the employer, based on reasonable grounds, not to award or provide a promotion, transfer, or benefit in connection with an employee’s employment.
- Informing a worker about unsatisfactory work performance in an honest, fair and constructive way.
- Ongoing meetings to address underperformance.
- Investigating alleged misconduct.
- Counselling or disciplining an employee for misconduct.
- Implementing organisational changes or restructuring.
- Modifying an employee’s duties including transferring or redeploying the employee.
- Refusing an employee permission to return to work due to a medical condition, when a medical practitioner has not provided medical evidence to state the employee is fit to return to pre-injury/illness duties.

## 4.4 Why is workplace bullying and violence an issue?

Bullying and violence within the workplace can disrupt work and effect employees’ wellbeing and health. Each individual will react differently to this behaviour, but the effects may include:

- Physical injuries.
- High level of distress, anxiety, depression.
- Ill health, sleep disturbance, fatigue.
- Loss of self-esteem and confidence, feeling of social isolation.
- Reduced work performance, incapacity to work.
- Reduced quality of home and family life.

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Workplace bullying and violence can be harmful to the organisation as well as to the individual, resulting in:

- High level of absenteeism and staff turnover.
- Breakdowns of teams and work relationships.
- Reduced efficiency and productivity.
- Poor industrial relations.

The WAFC aims to provide an enjoyable, challenging and harmonious work environment. Instances of bullying or violence are not tolerated within the workplace. The WAFC aims to put best practices in place for preventing this behaviour.

## 5. WHO IS RESPONSIBLE FOR EEO AND GOOD WORKING RELATIONSHIPS?

All employees have a responsibility for treating each other fairly and with respect. Executives, managers, supervisors and employees all have a role to play in implementing Equal Opportunity and in creating a workplace with good relationships.

Manager/supervisors have the responsibility to:

- Ensure selection and promotion processes are fair and consistent.
- Ensure that the workplace is free from bullying, harassment and unlawful discrimination.
- Provide employees with information and resources to let them do their work.
- Consult employees about decisions that affect them.
- Promote the principles of EO and diversity and this procedure and ensure that all employees understand its requirements.
- Provide equal access to fair, prompt and confidential procedures to deal with complaints and grievances.
- Provide equal access to relevant training and development opportunities and identify special training needs.
- Treat people fairly – recognise and respect the skills and talents of others – ensure that they do not discriminate against or harass employees or members of the public.
- Take action to stop discrimination or harassment when they see it happening.
- Participate in training and workshops related to EO principles and bullying.

Employees have the responsibility to:

- Respect cultural and social differences among work mates, members of the public and other people they deal with.
- Act to prevent harassment, bullying and discrimination against others.
- Participate in training and workshops related to EO principles and bullying.

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The People, Culture and Safety team play a key role with coordinating equal opportunity. The People, Culture and Safety Manager, with assistance from the People and Culture Specialist have received comprehensive training in EO principles and dealing with grievances. Their responsibility is to:

- Develop, implement and monitor EO policy and related procedures to ensure that the WAFC practices comply with EO legislation.
- Ensure that procedures are widely circulated and regularly reviewed.
- Educate and train staff on an ongoing basis about EO issues and implications of bullying.
- Administer and present EO Reports (including WGEA annual public report).
- Promote the WAFC's commitment to provide assistance where employees experience any form of harassment or discrimination.
- Coordinate grievance procedure.
- Ensure appropriate confidentiality and record keeping.
- Provide or refer to counselling service (Employee Assistance Program).
- Ensure that PCS procedures (recruitment, selection, training, promotion and termination) reflect EO principles.
- Ensure employees have fair and equitable access to all opportunities within the organisation.

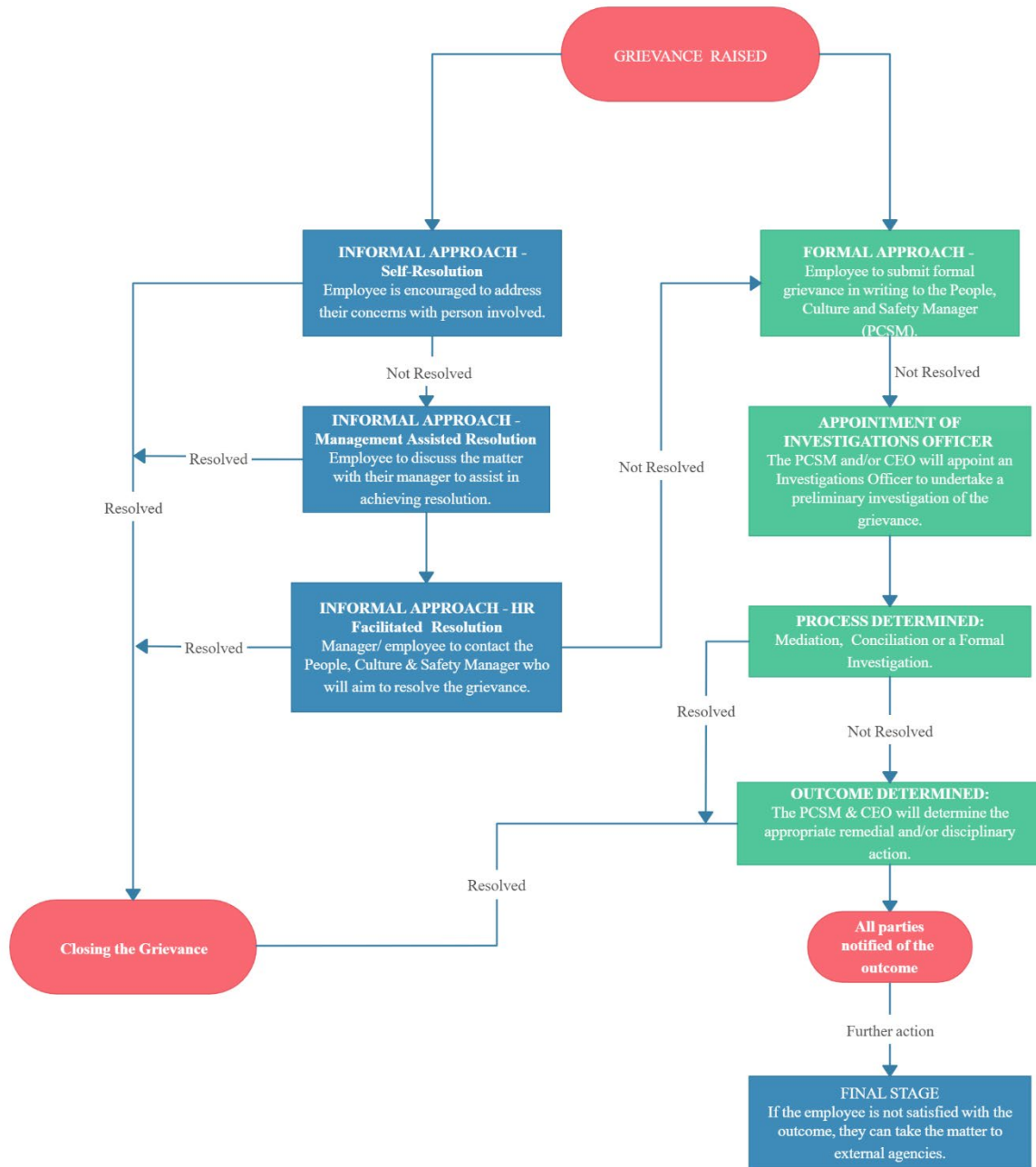
Managers are reminded that a failure to take preventative action *may* make themselves vicariously liable for such action. Refer to section 161 Vicarious liability under the Act. The Act also provides under section 160 for individual liability in cases where an employee causes, induces, aids or permits another person to do an act that is unlawful.

## 6. GRIEVANCE PROCEDURE

If an employee feels that a breach of the EEO, Bulling and Harassment policy has occurred, and/or that he/she has been discriminated against or harassed, or bullied, the following process based on the WAFC Grievance Policy should be taken:



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**Note:** At any step in this process, an employee is welcome to contact their PCS representative for advice and/or guidance.

For a more detailed process please refer to the Grievance Policy and/or contact the People, Culture and Safety Team.

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## 6.1 Additional Support and Resources – Employee Assistance Program:

Discrimination, harassment and bullying can seriously affect people’s wellbeing. All WAFC employees’ can at any time seek confidential counselling and support via our Employee Assistance Program (EAP).

## 7. VARIATION

The WAFC reserves the right to vary, replace or terminate this Policy from time to time.

## 8. QUESTIONS/FURTHER INFORMATION

### 7.1 Internal

Any questions about this policy should be directed to the People, Culture & Safety team.

### 7.2 External

Fair Work Commission – provides further information about related legislative requirements and provisions may be found [www.fairwork.gov.au](http://www.fairwork.gov.au).

Western Australian Equal Opportunity Commission – (08) 9216 3900

Worksafe WA - provides employees with free counselling regarding bullying and harassment on (08) 9327 8800 or 1300 307 877 or [www.docep.wa.gov.au](http://www.docep.wa.gov.au).