

RTRFM Policy 002

RTRFM Equal Opportunity, Discrimination & Harassment

1. Purpose

RTRFM is committed to a diverse, inclusive and healthy environment, where employees, members, volunteers and guests have the maximum opportunity for participation and treat each other with mutual respect. The RTRFM Equal Opportunity, Discrimination & Harassment Policy explains what diversity, discrimination, harassment and bullying are; outlines RTRFM's zero tolerance approach; and defines the roles and responsibilities in dealing with equal opportunity, discrimination and harassment matters, and in supporting and maintaining a diverse and inclusive environment.

RTRFM is committed to achieving the objectives of Part IX of the *Equal Opportunity Act 1984* (*Equal Opportunity Act*) which are:

1. to eliminate and ensure the absence of discrimination;
2. to eliminate and ensure the absence of sexual, racial and disability harassment; and
3. to promote equal employment opportunity for all persons.

RTRFM is therefore committed to providing a workplace free from discrimination, sexual, sex-based, racial and disability harassment and bullying, which will not be tolerated, and will lead to action being taken. RTRFM is also committed to providing a safe workplace free from unsafe behaviours of a kind relating to discrimination, harassment and equal opportunity (such as workplace aggression).

Scope

Compliance with this Policy is mandatory and applies to:

1. all RTRFM members
2. all RTRFM employees
3. all RTRFM volunteers
4. all of RTRFM's activities, operations and events

RTRFM recognises that the *Equal Opportunity Act 1984* (*Equal Opportunity Act*) refers to workplaces, and, as well as RTRFM employees, extends all of its principles to members and volunteers.

2. Principles

Equal Employment Opportunity and Diversity

Diversity encompasses acceptance, respect and recognition of individual differences such as background, skills, talents and perspectives, as well as characteristics that are protected under equal opportunity legislation.

Equal Employment Opportunity (EEO) ensures that everyone has equal access to available employment by ensuring that workplaces are free from discrimination and harassment. This includes ensuring workplace rules, policies, practices and behaviours are fair and do not directly or indirectly discriminate unlawfully.

Discrimination

Discrimination is any practice that results in less favourable treatment of individuals, or groups of individuals, on the following grounds (but is not limited to):

- Gender
- Race (includes ethnicity, national origin, language)
- Disability
- Age
- Pregnancy or potential pregnancy
- Breastfeeding
- Marital status
- Family responsibility
- Family status
- Political conviction
- Religious conviction
- Gender identity/history
- Sexual orientation
- Intersex status
- Spent conviction or irrelevant criminal record
- Trade union membership/activities
- Fines enforcement registrar
- Association with someone who has one of the above attributes

Direct discrimination occurs when individuals receive less favourable treatment than another in the same or similar circumstance based on the above and covered by Equal Opportunity legislation.

Indirect discrimination refers to policies and practices which on the surface appear to be fair because they apply to all employees. However, they actually have an adverse effect on groups of people who are not able to comply as the requirements placed on them are unreasonable.

Harassment

Harassment is unwanted, uninvited and inappropriate behaviour based on a person's sex, race, disability, or any other grounds under anti-discrimination legislation. Harassment, consists of unwelcome, offensive, abusive, belittling or threatening behaviour directed at an employee/member, or group of employees/members, which may be based upon a real or perceived difference. Such actions may result in the employee being offended, humiliated, intimidated or disadvantaged.

Sexual harassment

Sexual harassment is any conduct of a sexual nature that is unwelcome, unsolicited and would be considered offensive, humiliating or intimidating to a reasonable person. **Sexual harassment is against the law.**

Sexual harassment can be physical, spoken or written. It can include (but is not limited to):

- Staring or leering at a person or parts of their body
- Excessive familiarity or physical contact, such as touching, hugging, kissing, pinching, massaging and brushing up against someone
- Suggestive comments, jokes, conversations or innuendo
- Insults or taunts of a sexual nature
- Intrusive questions or comments about someone's private life
- Displaying posters, magazines or screen savers of a sexual nature
- Sending sexually explicit emails or text messages
- Inappropriate advances on social networking sites
- Accessing sexually explicit internet sites in the presence of others
- Unwelcome flirting, requests for sex or repeated unwanted requests to go out on dates
- 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

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

Behaviour can constitute sexual harassment even if:

- it is a one-off incident
- the perpetrator does not intend for the other person to be offended, humiliated or intimidated
- some people in the workplace are not offended by the behaviour
- the behaviour was previously an accepted practice in the workplace

Sexual interaction, flirtation, attraction or friendship, which is invited, mutual, consensual or reciprocated is not considered sexual harassment.

Sex based harassment

Sex based harassment is a new legal category introduced under Federal laws in September 2021. It occurs when a person:

- Engages in unwelcome conduct
- of a seriously demeaning nature in relation to the gender of the person harassed and
- in circumstances in which a reasonable person would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated

Racial harassment

Racial harassment is when a person is threatened, abused, insulted or taunted about or on the basis of their race, or a characteristic generally associated with their race, or they believe if they object to the unwanted behaviour they will be disadvantaged in their workplace, or they are disadvantaged. Racial harassment is against the law.

Disability harassment

Disability harassment is when a person is threatened, abused, offended or excluded because of their disability.

Bullying

Bullying is a pattern of behaviour or repeated actions that are unreasonable and directed towards an individual, or group of individuals, which intimidates, offends, degrades or humiliates the individual(s), including unreasonable, less favourable treatment by another, or others, in the workplace.

Bullying can take many forms. It can be physical, spoken, written, overt or covert. Behaviours that may constitute bullying include:

- Aggressive or intimidating conduct or threatening gestures
- Manipulation, intimidation or coercion
- Threats, abuse, offensive language, shouting or belittling
- Innuendo, sarcasm and other forms of demeaning language
- Ganging up
- Public humiliation
- Initiation activities
- Practical jokes, teasing or ridicule
- Isolation, exclusion or ignoring people

- Inappropriate blaming, emails/pictures/text messages
- Unreasonable accusations or undue unconstructive criticism
- Allocating unpleasant, meaningless or impossible tasks
- Placing unreasonably high work demands on selected employees
- 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
- Withholding access to opportunities

Workplace violence and aggression

Work related violence and aggression is also covered by the Work Health and Safety Act 2020 (WA). Although work related violence and aggression is not specifically defined in the Work Health and Safety Act 2020 (WA), it is defined in the Government of WA's 2022 Code of Practice: Workplace Behaviour. Work related violence and aggression covers a broad range of actions and behaviours that create a risk to safety and health of workers in circumstances related to their work. The harm can be physical or psychological. It covers one off as well as repeated incidents. Physical assaults and/or threats of harm can also be reported to the police as criminal behaviour. In addition, the 2022 WA Code of Practice: Workplace Behaviours exists, which provides guidance in relation to violence and aggression in the workplace from external parties, such as clients, customers, students and patients.

Victimisation

Victimisation is threatening, harassing or punishing a person in any way because they have objected to the discriminatory manner in which they have been treated. It also applies to anyone who has made a complaint, or intends to make a complaint.

Misconduct

The 2022 WA Code of Practice: Workplace Behaviour has identified misconduct that could constitute a safety issue. Misconduct is defined to be:

- any improper or unacceptable conduct
- which fails to meet the requirements of relevant regulations, codes of conduct, policies, procedures or all lawfully given directions (verbal or written) and
- has potential to cause a risk to safety and health.

This definition significantly expands the space where an employer and employee could be held to account for their behaviours.

Conflict

The 2022 WA Code of Practice: Workplace Behaviour has identified that conflict could also constitute a safety issue. Conflict is defined to be:

- Unresolved conflict between 2 or more people over a work-related matter(s) and
- The behaviour becomes inappropriate or unreasonable
- Poses a risk to health and safety.

If the employer has taken all reasonable measures, but the conflict is unresolvable, it is taken to have been resolved.

Psychosocial hazards

A new Code of Practice, “Psychosocial hazards in the workplace”, was released in February 2022. The Code states that psychosocial hazards are related to the physical, psychological and social conditions of the workplace which can lead to psychological or physical harm.

The code identifies a range of psychosocial hazards. Those related to employers, managers and the above types of behaviours are:

- Poor leadership practices
- Poor or no policies and procedures
- Work demands
- Low level of control
- Inadequate support
- Lack of role clarity
- Poor organisational change management
- Low recognition and reward
- Poor organisational justice
- Inappropriate and unreasonable behaviours (as previously outlined)

3. Application of Policy

Observance of the policy

RTRFM provides equal opportunity in employment to people, without discrimination based on a personal characteristic that is protected under Western Australian equal opportunity legislation.

RTRFM aims to provide a safe workplace free of discrimination, harassment, bullying and unsafe behaviour, which will not be tolerated.

The RTRFM Board and General Manager have a strong commitment to this policy and to ensuring that members understand how it applies to their time at RTRFM.

This policy statement is available to employees, members, volunteers and the public.

Breaches of this policy

Any RTRFM employee, member or volunteer can raise a genuine concern or grievance whether they have experienced or witnessed any inappropriate behaviour or practices at RTRFM. In the first instance, employees, members and volunteers are encouraged to resolve the concern on a one-to-one basis with the person(s) involved. If this is not appropriate, if the behaviour continues or in cases of potential misconduct or serious misconduct, employees, members or volunteers should contact the RTRFM General Manager. If a matter relates to the General Manager of RTRFM, it should be directed to the Board Chair.

Where an RTRFM employee, member or volunteer is not comfortable contacting the General Manager or Board Chair, an RTRFM Support Officer or particular other board members (for instance those belonging to the Safer Spaces working group, or other future relevant projects) may be contacted for an initial discussion regarding any concerns or grievances. An RTRFM Support Officer will be able to listen to and provide support regarding a grievance, as well as provide further options and information on the RTRFM grievance process. An RTRFM Support Officer is not responsible for investigating or resolving/making decisions about a grievance.

RTRFM will ensure that any discrimination, harassment, bullying and unsafe behaviour matters are treated seriously and confidentially, with the appropriate support and action taken to resolve the matters. Employees, members and volunteers found to have engaged in discrimination, harassment, bullying and/or unsafe behaviour may be subject to disciplinary action, which may include dismissal or suspension.

RTRFM employees, members and volunteers should feel confident that any complaint they make is to be treated as confidential, as far as possible.

RTRFM employees, members and volunteers will not be victimised or treated unfairly for raising an issue or making a complaint under this Policy.

4. Relevant Links:

- [Equal Opportunity Act 1984 \(Equal Opportunity Act\) \(WA\)](#)
- [Work Health and Safety Act 2020 \(WA\)](#)
- [Code of Practice: Psychosocial hazards in the workplace \(WA\)](#)
- [Code of Practice: Workplace Behaviour \(WA\)](#)
- [Age Discrimination Act 2004 \(AU\)](#)
- [Australian Human Rights Commission Act 1986 \(AU\)](#)
- [Disability Discrimination Act 1992 \(AU\)](#)
- [Racial Discrimination Act 1975 \(AU\)](#)
- [Sex Discrimination Act 1984 \(AU\)](#)

5. Review

This policy was set by the RTRFM Board in May 2018.

This policy was amended by the General Manager and Board in January 2022.

This policy was amended by the General Manager and Board in August 2022 following changes to the federal Sex Discrimination Act and WorkSafe's introduction of additional codes of practice relating to safe workplaces.