

Purpose

This policy outlines Horner Recruitments' (Horner) commitment to providing and maintaining a non-discriminatory and harassment-free work environment. It is aimed at ensuring our clients, employees and contractors are aware of their rights and obligations. As an Equal Opportunity employer, Horner undertakes all recruitment activities in accordance with the Equal Opportunity Act 2010.

Scope

This policy applies to all Horner employees, job applicants and other workplace participants. This policy applies to all activities undertaken during the course of work, and includes work related social activities or contact outside of usual working hours. Provisions outlined in agreements or other legislation should be read in conjunction with this policy. This policy applies to all aspects of employment including, but not limited to, recruitment and selection, performance management employment review, promotion, remuneration management, training and development, benefits and all other terms and conditions of employment. It applies to allegations of harassment, sexual harassment, discrimination on prohibited grounds, direct and indirect discrimination and bullying in the workplace.

Details

Horner considers harassment and discrimination to be unacceptable behaviour which will not be tolerated. Horner prohibits victimisation of any person as a result of them making an allegation of harassment or discrimination. Complaints of harassment or discrimination must be made honestly and must not be discussed with anyone other than those involved in the proceedings or with a legitimate right to know. Horner applies the merit principle, treating all employees and prospective employees, fairly and equitably regardless of factors such as gender, race, religion, colour, marital status, disability or national origin. All Horner employees will be treated equitably according to their skills, qualifications, abilities and achievements and will take reasonable steps to modify the physical work environment to accommodate disabled employees to ensure equality of opportunity.

This policy is in accordance with the Equal Opportunity Act 2010 but may also encompass the following legislation;

- Equal Opportunity Act 2010 (Victoria)
- Charter of Human Rights and Responsibilities Act (2006) (Victoria)
- Racial and Religious Tolerance Act 2001 (Victoria)
- Australian Human Rights Commission Act 1986 (Commonwealth)
- Racial Discrimination Act 1975 (Commonwealth)
- Sex Discrimination Act 1984 (Commonwealth)
- Disability Discrimination Act 1992 (Commonwealth)
- Age Discrimination Act (2004) (Commonwealth)
- Fair Work Act 2009 (Commonwealth)
- Workplace Gender Equality Act 2012 (Commonwealth)

All complaints are treated confidentially, seriously and respectfully. Horner has developed an internal complaint resolution process to assist employees who wish to raise issues of concern. Relevant disciplinary action may be taken against anyone found to have breached this policy.

Any employee who raises any concerns or complaints relating to bullying, harassment or discrimination will not be penalised or disadvantaged as a result.

Definitions

Horner is committed to providing a workplace free from harassment, discrimination, bullying and victimisation. We are committed to taking all reasonable measures to ensure our clients provide a working environment for our casual workers that meet with legislative requirements.

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For the purpose of this Policy, the following definitions will be referred to:

Harassment

Harassment refers to any unwanted, unwelcome and uninvited behaviour that results in a person feeling humiliated, intimidated or offended, and would be reasonable for them to feel this way. The perception by an employee that they have been harassed is sufficient for them to lodge a complaint. Harassment may be unlawful, even if there was no intent to harm another person. Harassment may be seen to have occurred if the behaviour makes the victim feel;

- Offended and humiliated
- Intimidated or frightened
- Uncomfortable at work

Sexual Harassment

Sexual Harassment refers to any unwanted, unwelcome and uninvited behaviour of a sexual nature that results in a person feeling humiliated, intimidated or offended, and would be reasonable for them to feel this way. The perception by an employee that they have been sexually harassed is sufficient for them to lodge a complaint. Sexual harassment is unlawful and may create a legal liability for those engaging in such behaviour, as well as anyone who condones, allows or encourages it. Some examples of sexual harassment include:

- Persistent, unwelcome demands or even subtle pressures for sexual favours or outings
- Leering, patting, pinching, touching or unnecessary familiarity
- Offensive comments on physical appearance, dress or private life
- Unwelcome discussion, questions or speculation about a person's sexual orientation or private life
- The public display of pornography (especially when it is directed at particular individuals) ranging from material that might be considered mildly erotic through to material that is sexually explicit

Horner recognises that comments and behaviour that may not necessarily offend one person can offend another. Management accepts that individuals may react differently and expects this right to be generally respected.

Discrimination

Discrimination means treating a person less favourably than others because of a particular attribute or status which is unrelated to the performance of the position. Discrimination contravenes the law when all three of the following have occurred;

- Unfavourable treatment – for example this may include bullying / harassment, being denied a benefit, unfair allocation of tasks, unfair rostering or exclusion from communications or resources
- Area of public life – for example this may include employment opportunities, provision of goods/services, education, accommodation, sport, clubs, disposal of land and local government
- Personal characteristics protected by law

There are 18 personal characteristics that are protected under Victorian legislation.

- Age
- Disability/impairment
- Industrial activity/inactivity or employment activity
- Lawful sexual activity
- Marital status, including defacto, same sex domestic partnerships
- Physical features
- Political belief or activity
- Pregnancy
- Race

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- Religious belief or activity
- Sex
- Gender identity
- Breast feeding
- Status as a parent or carer and family responsibilities
- Personal association with someone of the above attributes
- Irrelevant criminal conviction

Indirect Discrimination

Indirect discrimination occurs in situations where treating everyone the same is unfair. This occurs when an unreasonable requirement, condition or practice the purports to treat everyone the same ends up either actually or potentially disadvantaging someone with a personal characteristic protected by law.

Bullying

Bullying at work is defined as repeated unreasonable behaviour of either a direct or indirect nature directed towards any worker that can create risk to health and safety. Bullying can be carried out verbally, physically or in writing, e.g. via email, internet chat room and social networking sites, instant messaging and mobile phone technologies such as text messaging. Any form of bullying will not be tolerated and Horner is committed to preventing bullying at the workplace.

From 1 January 2014, amendments to the Fair Work Act 2009 allow an employee who believes that they have been bullied to apply to the Fair Work Commission (FWC) for an order to stop the bullying. The provision is not limited to employees but extends to contractors, casual workers and persons engaged under other workplace arrangements. Upon receiving a complaint from a worker the FWC is empowered by the Act to make any order it considers appropriate (other than an order requiring the payment of a pecuniary amount) to prevent the worker from being bullied at work. Examples of Bullying in the workplace include;

- Verbal abuse
- Putting someone down
- Spreading rumours or innuendo about someone either verbally or via social networking sites
- Interfering with someone's personal property or work equipment
- Unjustified criticism or complaints
- Deliberately excluding someone from workplace activities
- Deliberately denying access to information or other resources
- Withholding information that is vital for effective work performance
- Setting tasks that are unreasonably above or below a workers ability
- Deliberately changing work arrangements, such as rosters and leave, to inconvenience a particular worker or workers
- Setting timelines that are very difficult to achieve
- Excessive scrutiny at work

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

- Allocating work and setting performance goals, standards and deadlines
- Informing and warning a worker about unsatisfactory work performance
- Informing and warning a worker about inappropriate behaviour
- Undertaking performance management processes and providing constructive feedback.

Victimisation

Victimisation occurs when an individual is threatened with or subjected to any form of detriment as a result of raising an equal opportunity matter. Victimisation can be unlawful.

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Responsibilities

Managers

Managers are responsible to ensure that the provisions of this Policy are met and that the principles of equal opportunity are upheld in the performance of their duties and whilst acting as a representative of Horner. Managers are to take immediate action to address inappropriate behaviour. Managers must ensure that all complaints of discrimination, harassment or bullying are investigated quickly and fairly and treated confidentially. Managers must also ensure education and training of all employees is ongoing, and to assist employees with the implementation of this Policy, including the conduct of investigations.

Employees

All employees are to ensure that the provisions of the policy are met and that the principles of equal opportunity are upheld in the performance of their duties and whilst acting as a representative of Horner. Employees are to report any incidents of discrimination or harassment immediately and willingly participate in any investigation process deemed appropriate following any complaint.

Reporting of incidents

If any employee believes that they are being discriminated against, harassed, bullied or victimised, they should:

- Report the behaviour or incident to their direct manager. Where the Manager is not available, or is the alleged offender, the employee should report the matter to the next level, Managing Director, or Operations Manager
- Do not ignore the behaviour (ignoring the behaviour could be taken as tacit consent)
- Inform the offender that the behaviour is offensive and unacceptable, and against company policy and ask them politely and firmly to stop
- Seek assistance in having the behaviour stopped (this may include making a report or a complaint)

Employees must ensure that complaints are made honestly and fairly. Making untrue allegations about someone else could lead to legal action for defamation.

In addition to reporting incidents to management you may approach the Equal Opportunity Commission for independent advice at any time. Initially direct your inquiry to:

Enquiries Officer
Equal Opportunity Commission
Level 3, 380 Lonsdale Street
MELBOURNE VIC 3000
Phone: (03) 9281 7100

Investigation

All allegations of discrimination, harassment, bullying or victimisation will be promptly and thoroughly investigated. Any person who has been accused has the right to know the details of any allegations made against them, and must be given an opportunity to respond to those allegations. The accused person may seek advice before responding. The investigation process will ensure that both sides have the chance to tell their side of the story and to be treated fairly. Both sides will have access to support or representation if required.

Disciplinary Action

All allegations of discrimination, harassment, bullying or victimisation will be treated quickly, seriously and sympathetically. All matters will be treated thoroughly, impartially and confidentially and serious matters may be investigated formally with a view to serious discipline. Outcomes for informal and non-disciplinary complaints may include:

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- Changed practice or behaviour
- An apology
- Training for individual or groups
- Counselling
- Re instatement of lost conditions or benefits

Management must act immediately on reported incidents. Employees will not be disadvantaged in their employment conditions or opportunities as a result of lodging a complaint. Where any allegation or complaints have been substantiated, appropriate resolutions will apply. Similarly, action where necessary will be taken against anyone, including employees (be it Horner employees or direct employees of our clients) or independent contractors, who have been found to have harassed a co-worker, or any other person during the course of their employment.

Such action may, in exceptionally serious circumstances, extend to termination of employment.

Operations Manager



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