

# DISCRIMINATION, BULLYING & HARASSMENT POLICY

## PURPOSE

MECCA Brands is committed to its obligations to eliminate discrimination, bullying and harassment in the workplace and in customer relations. The Company recognises it is the right of every employee to be able to attend work and to perform their duties without being subjected to any form of discrimination, bullying or harassment. Equally it is the obligation and responsibility of every employee to ensure that the workplace is free from discrimination, bullying and harassment.

## SCOPE

This Policy applies to all full time, part time, fixed-term contract, and casual employees across all Australian and New Zealand stores, Support Centre and the Warehouse.

## DEFINITIONS

**Discrimination** occurs when someone treats an individual with a particular attribute less favourably than an individual without that attribute or with a different attribute under similar circumstances. It can also occur when seeking to impose a condition or requirement on a person with an attribute who does not or cannot comply and people without that attribute do or can comply.

**Bullying** at work occurs when:

- A person or group of people repeatedly act unreasonably towards them or a group of workers
- The behaviour creates a risk to health and safety.

**Harassment** is unwanted, unwelcome behaviour, which does not have any legitimate workplace function. Harassment includes any written, physical, or verbal conduct that from the perspective of a reasonable person is intimidating, offensive or humiliating against another person.

**Victimisation** occurs when a person or group of people retaliate or make reprisals including dismissing or harming the employment of those who submit a complaint about harassment, bullying or discrimination.

## REVIEW

MECCA Brands at its own discretion reserves the right to change this policy and/or related procedures in line with relevant legislation and business requirements.

# POLICY

## Unlawful Discrimination

Everyone should feel comfortable in the workplace and individual differences should be respected. Unlawful discrimination is when an individual or group of individuals are treated less favourably than others on the grounds prohibited by law. These grounds relate to personal attributes such as:

- Age or gender
- Race (including colour, nationality, national origin or ethnicity)
- Sexual preference, transgender status, homosexuality
- Marital status including de facto
- Pregnancy, potential pregnancy, breastfeeding, or being childless
- Responsibilities as a carer or parent
- Physical and/or intellectual impairment
- Political opinion or religious belief
- Trade union activity
- Physical features
- Medical condition, disability or impairment
- Personal association with anyone with these characteristics.

Discrimination can be both direct and indirect.

Direct Discrimination occurs when an individual is prevented a benefit or an opportunity due to a personal characteristic irrelevant to the job. For example, an employee being treated less favourably because of their age or ethnic background.

Indirect Discrimination occurs when a seemingly harmless policy, rule or practice has a discriminatory effect against a group of people or an individual. For example, a decision may be made to introduce a policy that requires everyone to read English so they can read safety signage. This could indirectly discriminate against people on the basis of age, ethnicity or intellectual impairment.

There are exceptions to anti-discrimination law, whereby the inherent requirements of the role necessitate specific functions to be performed. You should not assume any exception applies unless this has been confirmed by Talent and Culture.

Behaviour does not have to be calculated or conscious for it to be unlawful, nor does it have to be intentional for an allegation to be substantiated. If any of the above behaviours offend, humiliate, intimidate, or makes someone feel uncomfortable they are unlawful.

Unlawful conduct has nothing to do with mutual attraction, genuine affection, compliments or behaviour that is welcome.

Claiming to be unaware of the requirements under this policy cannot be used as a defence against an allegation of discrimination. Further, lack of intent is no defence in discrimination or harassment cases.

## **Bullying**

Bullying happens when someone in the workplace repeatedly behaves unreasonably towards another person or group of people and causes a risk to health and safety in the workplace. This behaviour doesn't have to be related to the person or group's characteristics and adverse action doesn't have to have happened.

Unreasonable behaviour includes victimising, humiliating, intimidating or threatening. Whether a behaviour is unreasonable can depend on whether a reasonable person might see the behaviour as unreasonable in the circumstances.

Bullying behaviour can be but not limited to:

- Verbal, such as; name calling, teasing, practical jokes, abuse, putdowns, sarcasm, insults, threats
- Physical, such as; hitting, punching, kicking, scratching, tripping, spitting
- Social, such as; ignoring, excluding (i.e. from work related events), ostracising, alienating, making inappropriate gestures
- Psychological, such as; spreading rumours, dirty looks, hiding or damaging possessions, malicious SMS and email messages, inappropriate use of camera phones
- Any aggressive behavior
- Pressuring someone to behave inappropriately
- Unreasonable work demand.

Reasonable management action that is carried out in a reasonable way is not bullying. A manager can make decisions about poor performance, take disciplinary action, and direct and control the way work is carried out. Reasonable management actions may include:

- Setting reasonable performance goals
- Standards and deadlines
- Providing constructive feedback on work performance or behaviours, following counselling or disciplinary policies and procedures
- Differences of opinion

## **Harassment**

Harassment may occur as a single act, or as a series of instances, persistent innuendoes or threats. It includes any written, physical, or verbal conduct and can take many forms (i.e. silent or loud, subtle or openly hostile).

Behaviour can constitute harassment even if it was not intended to offend or harm the individual. If a reasonable person finds the behaviour offensive or intimidating, regardless of the intention, this it is likely to be classified as harassment.

If you are unclear whether certain behaviour or conduct may constitute as harassment, you are advised not to commence or continue the behaviour in question and check the appropriateness with your manager or Talent and Culture.

Examples of unacceptable harassment include, but are not limited to:

- Verbal abuse or comments that put down or stereotype

<p><b>Harassment (cont.)</b></p>	<ul style="list-style-type: none"> <li>▪ Inappropriate jokes based on the grounds listed in this policy</li> <li>▪ Mimicking someone's accent or habits</li> <li>▪ Email/s containing racist or offensive material</li> <li>▪ Offensive/defamatory comments or gestures</li> <li>▪ Ignoring or isolating a person or group because of the grounds listed in this policy</li> <li>▪ Displaying or showing offensive material at your workstation or on your computer, including pictures or cartoons</li> <li>▪ Sending or storing offensive emails</li> </ul> <p>You do not have to be directly involved in a situation to feel harassed. A third party witnessing or overhearing a situation or conversation of which they are not a part, may make a complaint if they feel humiliated, offended or intimidated by the behaviour.</p> <p>This policy extends to behaviour towards colleagues outside of standard work hours, including work related functions.</p>
<p><b>Sexual Harassment</b></p>	<p>Sexual harassment is unwelcome conduct of a sexual nature that makes a person feel offended, humiliated and/or intimidated, and where that reaction is reasonable in the circumstances. It can be physical, verbal or written. It is a serious form of harassment which can also constitute a criminal offence.</p> <p>Certain conduct that may be tolerated socially could constitute as sexual harassment in the workplace when it is unwelcome. At the same time, sexual harassment must not be confused with conduct that has the consent of all involved.</p> <p>The following examples may constitute sexual harassment if they are offensive to an employee, regardless of the intent:</p> <ul style="list-style-type: none"> <li>• Persistent requests for a date, excessive flirting, or sexual favours where such requests have been consistently declined</li> <li>• Unnecessary familiarity, such as constantly staring at a person or being overly complimentary</li> <li>• Unwanted physical contact, such as touching or fondling, massaging someone's shoulders without invitation, deliberately brushing against a person or attempted kissing</li> <li>• Sexual jokes, innuendo or gestures</li> <li>• Sexually offensive telephone calls</li> <li>• Unwelcome comments or questions about a person's private life, their sexuality or physical appearance</li> <li>• Engaging in discussions of a sexual nature in the workplace</li> <li>• Display or circulation of sexual material, including magazines, posters or pictures, screen savers, email attachments, messages and emails of a sexual nature</li> <li>• Public displays of nudity or flashing</li> <li>• Sexual violence or assault (illegal under criminal law).</li> </ul> <p>Sexual harassment can occur in various places and times in the workplace including, but not limited to:</p> <ul style="list-style-type: none"> <li>• In the office or work grounds</li> <li>• Via electronic means such as email, Facebook and Twitter</li> </ul>

<p><b>Sexual Harassment (cont.)</b></p>	<ul style="list-style-type: none"> <li>• Work conferences</li> <li>• Work related events/functions.</li> </ul> <p>Behaviour constituting sexual harassment is often thought to be done in person, but it can also occur in electronic form such as email or text messages. You should be conscious that electronic communications can have a wider circulation than originally intended, so should never be used for any offensive or sexual communications.</p> <p>It should also be noted that conduct may constitute sexual harassment irrespective of the sexual preference or gender of those involved.</p> <p>In considering whether your conduct is appropriate, you need to consider that some people may not feel comfortable communicating their lack of consent or that the behaviour is not welcome. This may be because of someone's personality or the deemed power of the people involved.</p> <p>Any personal friendships that develop at work should not impact on your responsibilities to do your work or on the performance or productivity of your co-workers.</p> <p>Sexual harassment is not behaviour that is based on mutual attraction, friendship and respect.</p>
<p><b>Rights and Responsibilities</b></p>	<p>MECCA Brands recognises it is the right of every employee to be able to attend work and to perform their duties without being subjected to any form of discrimination, bullying or harassment.</p> <p>Equally it is the obligation and responsibility of every employee to ensure that the workplace is free from discrimination, bullying and harassment.</p> <p><b>Management Responsibilities</b></p> <p>If you are a manager, you are responsible for ensuring that:</p> <ul style="list-style-type: none"> <li>▪ All reasonable steps to eliminate discrimination, bullying and harassment are made</li> <li>▪ All employees are regularly made aware of their obligations in relation to providing a workplace free from discrimination, bullying or harassment</li> <li>▪ Set an example by your own behaviour that discourages victimisation, discrimination, bullying and harassment</li> <li>▪ Treat all complaints seriously and confidentially</li> <li>▪ Take immediate and appropriate corrective action if you become aware of any offensive action.</li> </ul> <p><b>Employee Responsibilities</b></p> <p>As an employee you are responsible for ensuring that:</p> <ul style="list-style-type: none"> <li>▪ You understand and are committed to the rights and entitlements of all employees to attend work and perform their duties without fear of being discriminated against, bullied or harassed in any form</li> </ul>

<p><b>Rights and Responsibilities (cont.)</b></p>	<ul style="list-style-type: none"> <li>▪ You provide an environment which discourages victimisation, discrimination, bullying and harassment</li> <li>▪ Immediately report any offensive action</li> <li>▪ You do not engage in discriminatory, bullying or harassing conduct</li> <li>▪ You will take action when confronted with behaviour that breaches this policy.</li> </ul> <p><b>Talent and Culture Responsibilities</b></p> <p>This department is responsible for ensuring that:</p> <ul style="list-style-type: none"> <li>▪ Guidance and education is provided, where requested and/or appropriate, to cases and subsequent decisions relating to discrimination, bullying or harassment</li> <li>▪ Prompt, complete and unbiased investigations take place following a complaint</li> <li>▪ Confidentiality is maintained throughout an investigation or in relation to a complaint</li> <li>▪ Management and employees are aware of their obligations and responsibilities in relation to discrimination, bullying or harassment, and the rights and entitlements of all employees</li> <li>▪ Ongoing support and guidance is provided to management and employees in relation to the prevention of discrimination, bullying or harassment</li> <li>▪ Managing the complaints procedures.</li> </ul>
<p><b>Duty of care obligations</b></p>	<p>Both you and the company have duty of care obligations which means that any instances of discrimination, bullying or harassment that you become aware of which may be putting one or more person's health and or safety at risk, must be reported to Talent and Culture or your line manager and corrective action must be taken to eliminate such risk to health and safety.</p> <p>Failure to report or address such risk to a person's health and or safety is in breach of company policy and procedure as well as Workplace Health and Safety Legislation and may result in disciplinary action up to and including termination of employment.</p>
<p><b>Resolution Process</b></p>	<p>Behaviour may be found to be discrimination, bullying or harassment when it continues after a request from the recipient for the behaviour to stop, or at the point it becomes intimidating, offensive or humiliating.</p> <p>If you believe you are the subject of discrimination, bullying or harassment, you should take firm, positive and prompt action.</p> <p>If appropriate, you should make the perceived harasser(s) aware that you find their behaviour offensive, unwelcome, unacceptable, and needs to stop immediately.</p> <p>If the behaviour continues, or if you feel unable to speak to the person(s) directly, you should contact your manager, another manager whom you feel comfortable with or Talent and Culture. Your/the Manager or Talent and Culture will provide support, ascertain the nature of the complaint and determine how you wish to deal with it.</p>

<p><b>Resolution Process (cont.)</b></p>	<p>You do not have to request a full formal investigation if you will be satisfied by less formal treatment of the issue.</p> <p>All allegations are taken seriously and will be investigated. If you feel you are being subject to treatment amounting to discrimination, bullying or harassment, you should try to resolve your grievance using the steps below:</p> <ol style="list-style-type: none"> <li>1. If you feel comfortable doing so, speak to the person with whom the issue exists.</li> <li>2. If you are unable to resolve the issue directly with the person concerned, speak to your manager so they can discuss your complaint with the alleged or arrange mediation.</li> <li>3. If this is unsuccessful or not appropriate, speak with your next level Leader or Talent and Culture. If a complaint is made at this level it must be made in writing.</li> </ol> <p>It is not mandatory for the victim to approach the alleged perpetrator requesting them to stop the behaviour prior to making a complaint.</p>
<p><b>Informal Intervention</b></p>	<p>Informal intervention may be done through a process of either mediation or conciliation. During informal intervention the respondent will be made aware of the allegations being made against them and given the right to respond.</p> <p>This procedure will be complete when the alleged harasser respects the individual's request to cease unwanted and unwelcome behaviour. If this does not occur, the formal intervention procedure will be followed.</p>
<p><b>Formal Intervention</b></p>	<p>Proceeding with a formal complaint requires the consent of the person complaining, particularly as witnesses or Senior Management may become involved. The formal procedure will be coordinated by a Manager in consultation with Talent and Culture, and the process for a formal complaint is as follows:</p> <ol style="list-style-type: none"> <li>1. The Manager or Talent and Culture will clarify the complaint and obtain a step-by-step account of the incident. In serious cases, more than one interview may be necessary.</li> <li>2. The Manager or Talent and Culture will document all interviews accurately and avoid irrelevant information. This will include parties involved, timing, location, and nature of conduct complained against.</li> <li>3. Records will be kept and filed in a confidential and secure place, with the Manager and Talent and Culture.</li> <li>4. The Manager or Talent and Culture will organise an investigation which in most cases may involve but is not be limited to: <ul style="list-style-type: none"> <li>▪ A private interview to ascertain the facts and what the complainant expects to happen as a result of making the complaint</li> </ul> </li> </ol>

<p><b>Formal Intervention (cont.)</b></p>	<ul style="list-style-type: none"> <li>▪ An interview with the alleged harasser(s) to ascertain their defence</li> <li>▪ Interviews with other employees or individuals who may be witness to the alleged behaviour</li> <li>▪ Examination of any relevant documents / evidence</li> <li>▪ Determination of previous behaviours or issues.</li> </ul> <p>5. All evidence should be forwarded to the person conducting the investigation, and may include:</p> <ul style="list-style-type: none"> <li>▪ Documentation provided by a medical practitioner, counsellor, family member, friend or colleague</li> <li>▪ Information provided about the behaviour of the alleged harasser</li> <li>▪ Records kept by the person claiming to have been harassed</li> <li>▪ Information on whether the evidence was presented by the parties in a credible and consistent manner</li> <li>▪ Information on the absence of evidence where it should logically exist.</li> </ul> <p>6. On completion of the investigation the complainant and the Manager or Talent and Culture, will determine a course of action to be taken and advise all relevant parties of the outcome.</p>
<p><b>Outcomes</b></p>	<p>Establishing the outcome of an investigation and determining the most suitable actions will depend on factors such as:</p> <ul style="list-style-type: none"> <li>▪ The severity and frequency of the discrimination or harassment</li> <li>▪ The weight of the evidence</li> <li>▪ Whether the harasser could have been expected to know that such behaviour was a breach of policy</li> <li>▪ The level of contrition</li> <li>▪ Whether there have been any prior incidents or warnings.</li> </ul> <p>If the complaint is substantiated, appropriate disciplinary action will be taken, ranging from a verbal or written warning, through to attending compulsory training or termination of employment. Other possible courses of action may include:</p> <ul style="list-style-type: none"> <li>▪ Counselling</li> <li>▪ Disciplinary action (e.g. demotion, transfer)</li> <li>▪ Formal apologies to undertake that the behaviour will cease</li> <li>▪ Conciliation/mediation conducted by an impartial third party where the parties to the complaint agree to a mutually acceptable resolution</li> <li>▪ Reimbursing any costs associated with the discrimination or harassment</li> <li>▪ Re-crediting any leave taken as a result of the harassment.</li> </ul> <p>A copy of the investigation may also be placed in the respondent's personnel file.</p> <p>If a complaint is unsubstantiated, the Manager or Talent and Culture will:</p> <ul style="list-style-type: none"> <li>▪ Remind those involved of expected standards of conduct</li> <li>▪ Conduct further training awareness raising sessions for staff</li> <li>▪ Monitor the situation carefully.</li> </ul>

<b>Outcomes (cont.)</b>	<p>Regardless if the claim was substantiated or not, Talent and Culture along with the Manager involved will continue to monitor the situation on an ongoing basis to ensure that no offensive behaviour occurs and that neither party has been victimised.</p> <p>If there has been any substantiated victimisation Disciplinary Procedures will be followed. In a serious case, one instance of harassment may be enough to be considered grounds for termination.</p>
<b>Following Investigation</b>	<p>Any person involved in an investigation will be required to keep the information confidential both during and after an investigation. If you are found to be inappropriately communicating details of a complaint or an investigation you may be subject to disciplinary action.</p> <p>We will take every step to prevent you from being victimised or otherwise disadvantaged, as a result of making a complaint or acting as a witness in a complaint. If retributive action is taken against a complainant, the person engaging in this behaviour may be subject to disciplinary action, up to and including termination of employment.</p> <p>MECCA Brands values a positive culture and working environment, therefore, if an investigation finds a complaint to be vexatious or malicious, disciplinary action against the person who made the complaint may be made, up to and including termination.</p> <p>You should also be aware of your responsibility under the laws of defamation. That is, it is unlawful to knowingly promote or publish untruthful claims about others.</p>
<b>Reporting Breaches of this Policy</b>	<p>Any breach of this policy should be reported immediately to the Talent and Culture team.</p>
<b>Consequences of Breaching this Policy</b>	<p>Any breach of this policy may result in disciplinary action up to and including termination of employment.</p>
<b>Related Documents</b>	<p>▪ Vision, Purpose and Values ▪ Performance &amp; Conduct Policy ▪ Equal Employment Opportunity Policy ▪ Dishonesty Policy ▪ The Code of Conduct</p>