



# Mitcham Community House

## Equal Opportunity Policy

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Policy number	V5	Date approved	15 February 2017
Draft number	Final	Scheduled review date	15 February 2019

### INTRODUCTION

Victorian and Commonwealth equal opportunity laws protect people from discrimination, sexual harassment and victimisation in areas of public life. The laws apply to Mitcham Community House as a workplace, a place to volunteer, and a place where education, goods and services are provided.

Mitcham Community House recognises that equal opportunity is a matter of legal, social and employment responsibility. Accordingly, Mitcham Community House is committed to providing a place for everyone that is free from discrimination, sexual harassment and victimisation where staff, tutors, volunteers and students can work, learn, and develop skills to their full potential.

This policy applies to all people at Mitcham Community House, including, but not limited to, the Committee of Management (the Committee), staff, tutors, volunteers, students, and visitors.

### PURPOSE

The purpose of this policy is to:

- Communicate that Mitcham Community House does not tolerate any form of discrimination, sexual harassment and victimisation
- Facilitate the creation of a workplace culture that maximises organisational performance through employment decisions, where such decisions are based on real business needs and merit, and without regard to irrelevant criteria or distinctions
- Outline Mitcham Community House's responsibilities regarding discrimination, sexual harassment and victimisation
- Set out the processes to be followed should any instance of discrimination, sexual harassment or victimisation be reported

### POLICY

Through its policies, procedures and practices, Mitcham Community House aims to ensure equal access for everyone to opportunities at the House.

#### What is equal opportunity?

Equal opportunity is about giving and getting a fair go. It does not assume that everyone is the same and it does not mean treating everyone the same. In some circumstances, treating everyone the same is unfair and against the law.

Mitcham Community House believes that providing accessible and equitable activities, programs and services leads to work and life opportunities for all, and creates a strong local community. Mitcham Community House encourages participation in its activities, programs and services through the fair and appropriate allocation of resources, and the removal of barriers to participation, so far as is reasonably practicable.

Mitcham Community House is an equal opportunity employer and will provide fairness and equality in employment for all people employed or seeking employment. Every person will be given a fair and equitable chance to compete for appointment, promotion, or career development as effectively as others and according to individual merit and competence.

### **What is discrimination?**

Discrimination is treating, or proposing to treat, someone unfavourably because of a personal characteristic protected by law. Discrimination can be direct or indirect.

Personal characteristics protected by law include sex, race, age, physical features, disability, sexual orientation, political beliefs, and carer, parental or marital status.

### **What is sexual harassment?**

Sexual harassment is unwelcome or unwanted sexual behaviour that reasonably offends, humiliates, intimidates or undermines a person. Sexual harassment can be physical, verbal, written or other conduct. Males and females can be subjected to sexual harassment from persons of the same or opposite gender. Sexual harassment can be a single incident or repeated behaviour.

Behaviour, whether intentional or unintentional, that constitutes sexual harassment includes:

- Suggestive behaviour, such as leering or ogling, 'flashing' or sexual gestures
- Physical contact, such as touching, fondling or brushing up against a person
- Comments about a person's physical appearance or sex life
- Unwelcome questioning about a person's private life
- Sexual propositions or repeated unwanted requests for dates or sex
- Making sexual jokes or offensive telephone calls
- Sending jokes or images of a sexual nature by social media, text messaging or email
- Displays of offensive photographs, words, objects, computer wallpaper or screen savers
- Stalking, indecent assault, and rape

### **What is not sexual harassment?**

Sexual harassment is not behaviour that is based on mutual attraction, friendship and respect. Where interaction is consensual, welcome and reciprocal, this will not constitute sexual harassment. However, what interaction is consensual, welcome and reciprocal, may be influenced by the relative

power of the people involved and any power imbalances will be taken into consideration in sexual harassment investigations.

This policy is not intended to interfere in the personal lives and relationships of people at Mitcham Community House.

### **What is victimisation?**

Victimisation is subjecting, or threatening to subject, someone to something detrimental because they asserted their rights under equal opportunity law, made a complaint, helped someone else to make a complaint, or refused to do something because it would be discrimination, sexual harassment or victimisation.

### **Reporting incidents of discrimination, sexual harassment or victimisation**

Inappropriate behaviour related to discrimination, sexual harassment or victimisation can be reported verbally or in writing to the Manager, or by using Mitcham Community House's Complaints Handling Policy. If the inappropriate behaviour relates to conduct by the Manager, a report can be made to a Committee member, who will respond, and follow the procedures below, in place of the Manager.

The person making the complaint (called the complainant) has the right to determine how to have the complaint treated, the right to have support or representation throughout the process, and the option to discontinue the complaint at any stage of the process.

### **Responding to reports of discrimination, sexual harassment or victimisation**

Where inappropriate behaviour related to discrimination, sexual harassment or victimisation is reported, Mitcham Community House will take the following action:

- Any reported complaints of inappropriate behaviour will be dealt with by Mitcham Community House promptly, impartially, confidentially, and within established timeframes to comply with legislative and guideline requirements
- The Manager or appropriate Committee member if the complaint is against the Manager will speak with all parties involved as soon as possible, collect information, and seek a resolution to satisfactorily address the issue/s for all parties
- All parties will be treated with respect and all parties will be able to state their case
- The person responding to the complaint (called the respondent) will have the right to have support or representation present when responding to the allegations made
- Relevant information will be collected and considered before a finding is made
- If the issue/s cannot be resolved or the inappropriate behaviour is considered to be of a serious nature, an impartial person will be appointed to investigate

- All parties will have the right to seek the advice of an external body to assist them to resolve the issue/s
- There will be no victimisation of the complainant or the person/s attempting to resolve the complaint
- Reports of inappropriate behaviour made maliciously or in bad faith may result in disciplinary action

**Breach of this policy**

Appropriate disciplinary action will be taken against a person who is found to have breached this policy. The action taken will depend on the nature and the circumstances of the breach and may include:

- A verbal or written apology
- A verbal or written reprimand
- One or more parties agreeing to participate in training, counselling or mediation
- A transfer, demotion or dismissal of the person who engaged in the inappropriate behaviour

Anyone who victimises or retaliates against a complainant will be subject to disciplinary action.

Where reported complaints of inappropriate behaviour cannot be substantiated or where investigations identify that discrimination, sexual harassment or victimisation has not occurred; Mitcham Community House may still take appropriate action to address any issue/s leading to the making of the complaint.

**AUTHORISATION**

Signature of Committee Chairperson	
Date of approval by the Committee	



## Mitcham Community House

# Equal Opportunity Procedures

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### RESPONSIBILITIES

The Committee will:

- Ensure that there are appropriate resources, systems and processes, so far as is reasonably practicable, to prevent or minimise the risks arising from discrimination, sexual harassment and victimisation
- Ensure that there is in place appropriate systems and processes to receive, manage and promptly respond to reports of discrimination, sexual harassment and victimisation incidents and risks
- Ensure that there is in place systems and processes to comply with the duties and responsibilities under law
- Ensure that equal opportunity principles are integrated into strategic plans and that a proactive approach is taken to compliance and improvements

The Manager will:

- Ensure that risk management strategies are reviewed and assessed to identify any foreseeable discrimination, sexual harassment or victimisation risks at Mitcham Community House and develop, document, implement and monitor any gaps in the systems and processes
- Review and report to the Committee, as appropriate, on the effectiveness of the management systems established to prevent discrimination, sexual harassment and victimisation
- Ensure that systems and processes to receive, manage and promptly respond to reports of discrimination, sexual harassment and victimisation incidents and risks are implemented
- Ensure that decisions relating to the appointment, promotion and career development of staff are determined according to individual merit and competence
- Respond to any reported complaints of discrimination, sexual harassment or victimisation promptly, impartially, confidentially, and within legislative timeframes
- Inform and train staff, tutors and volunteers in this policy and its procedures

- Ensure that this policy is placed on the IT repository and easily accessible to all
- Explore funding opportunities and provide ongoing education, support and guidance to the Committee, staff, tutors and volunteers in promoting equal opportunity principles

All staff, tutors and volunteers will:

- Ensure they are aware of, and comply with, this policy and its procedures
- Ensure that reasonable accommodations are made to allow individuals or groups access to activities, programs and services provided by Mitcham Community House
- Ensure that all material, posters or signs are written in plain language or, where possible, in different languages based on effective communication strategies for specific communities
- Engage in behaviours that promote equal opportunity principles

## **PROCESSES**

### **Complaints procedure**

Where the complainant feels comfortable doing so, it is preferable to raise the issue/s with the person directly to resolve the issue/s through discussion. The complainant should identify the inappropriate behaviour, explain to the person that their behaviour is unwelcome and unacceptable and ask that their behaviour stops, then make a note of the incident.

If the behaviour continues, or if the complainant feels uncomfortable speaking to the person directly, they should contact the Manager or appropriate Committee member if the complaint is against the Manager.

The Manager or Committee member will ascertain the nature of the complaint and provide support.

### **Informal intervention procedure**

Informal intervention is confidential and will adopt a non-confrontational approach to resolving the issue/s through mediation or conciliation.

During informal intervention, the respondent will be made aware of what is alleged against them and will have the right to respond.

Informal intervention will be completed when the respondent respects the complainant's request to stop the inappropriate behaviour, or when the complainant accepts that the behaviour does not properly constitute discrimination, sexual harassment or victimisation.

If neither of these outcomes occurs, Mitcham Community House's formal complaints procedure will be followed.

### **Formal complaints procedure**

The formal complaints procedure involves a formal investigation of the complaint. Formal investigations may be conducted internally by the Manager or Committee member or externally by an investigator.

Formal investigations involve collecting information about the complaint and making a finding based on the available information to determine whether or not the alleged behaviour occurred. Once a finding is made, the investigator will make recommendations about how to resolve the complaint.

The investigator may need to interview all parties involved (including any witnesses) to obtain information about the complaint. Throughout the investigation, all parties involved will be kept regularly informed about the investigation.

If the investigator considers it appropriate for the conduct of the investigation, the complainant and respondent may be stood down from work or provided with alternative duties during the investigation, in which case they will be paid their normal pay during any such period.

The findings as to whether discrimination, sexual harassment or victimisation has occurred will be determined on the basis of the evidence on the balance of probabilities.

On the basis of the findings, possible outcomes of the investigation may include:

- A formal apology or undertaking that the behaviour will stop
- An official warning
- Counselling
- Disciplinary action, including termination of employment or volunteering

On completion of the investigation, all parties involved will be informed about the findings and the outcome of the investigation.

Following the investigation, irrespective of the findings, the Manager will:

- Consult with all parties involved to monitor the situation and their wellbeing
- Educate and remind all staff, tutors and volunteers of their responsibilities in providing a workplace free from discrimination, sexual harassment and victimisation

### **Criminal conduct procedure**

Some kinds of discrimination, sexual harassment and victimisation are considered to be serious in nature and may amount to criminal conduct.

Whilst Mitcham Community House is committed to treating most discrimination, sexual harassment and victimisation complaints at an organisational level, some kinds of conduct are best dealt with by the criminal justice system.

Staff, tutors and volunteers will be advised of the option to contact police for intervention or support. It is not the responsibility of Mitcham Community House to report such matters to police on behalf of the complainant.

### **RELATED DOCUMENTS**

- Code of Conduct Policy
- Complaint Handling Policy
- Disability Action Plan

- Inclusive Participation Policy
- Workplace Bullying Policy
- Privacy Policy
- Volunteer Policy
- Recruitment, Employment and Training Policy

## **AUTHORISATION**

Signature of Committee Chairperson	
Date of approval by the Committee	