



# Workplace Behaviours Policy

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<b>Policy Number:</b>	ML 1.11	<b>Date:</b>	23 <sup>rd</sup> October 2018
		<b>Approved by:</b>	Chief Executive Officer
<b>Version:</b>	1/2018	<b>Scheduled review date:</b>	1 <sup>st</sup> November 2019

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## 1. Statement of Context and Purpose

- 1.1 Melbourne Legacy (ML) is committed to treating all employees, volunteers, contractors and other authorised personnel with integrity and respect and providing all with equal opportunity in a health and safe workplace free from bullying, sexual harassment, discrimination, victimisation and vilification (referred to in this policy as “inappropriate behaviours”).
- 1.2 All ML employees, volunteers, contractors and other authorised personnel have a right not to be harassed, bullied, discriminated against or assaulted in the workplace.
- 1.3 ML will not tolerate inappropriate behaviours under any circumstances. This policy aims to:
  - (a) Set out ML’s expectations and requirements applying to workplace behaviours;
  - (b) Ensure that ML’s employees, volunteers, contractors and other authorised personnel are aware of their obligations and responsibilities at work;
  - (c) Encourage safe, responsible and appropriate workplace behaviours;
  - (d) Provide an environment where all members of the Melbourne Legacy community have access to a safe and inclusive environment, free from harassment, discrimination, sexual harassment, bullying and workplace violence.

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## 2. Scope

- 2.1 This policy applies to all employees, contractors, volunteers and other authorised personnel required to perform functions on behalf of ML or on ML’s premises.
- 2.2 This policy is not intended to override or form part of the terms of any award, enterprise agreement or contract that applies to an employee, but should be considered a reasonable direction to staff. As such all employees, volunteers, contractors and other authorised personnel are expected to abide by this policy and report any suspected or known breaches of this policy.

### 3. Related Documents

#### 3.1 External Documents

Relevant Legislation or Authority:

- a) Fair Work Act 2009
- b) Sex Discrimination Act 1984
- c) Racial Discrimination Act 1975
- d) Disability Discrimination Act 1992
- e) Australian Human Rights Commission Act 1986
- f) Age Discrimination Act 2004
- g) Equal Opportunity Act 2010 (Vic)
- h) Racial and Religious Tolerance Act 2001 (Vic)

#### 3.2 Internal Documents

Policies and Procedures:

- a) Code of Conduct
- b) Social Media Networking Policy

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### 4. Definitions

- 4.1 **Bullying** is defined as repeated unreasonable behaviour by an individual or group of individuals towards a worker or a group of workers in the workplace, where the behaviour creates a risk to the health and safety of the worker and workers.
- 4.2 **Discrimination** occurs when a person is treated less favourable because of a reason or protected attribute which is prohibited by law. The prohibited grounds of discrimination are set out in the federal, state and territory anti-discrimination legislation and include sex, race, age, disability, pregnancy, religious beliefs, marital status, caring responsibility, membership or non-membership of a trade union.
- 4.3 **Repeated behaviour** refers to the persistent nature of the behaviour and can refer to a range or pattern of behaviours which occur over a period of time or may be established from a series of events (for example, verbal abuse, unreasonable criticism, isolation).
- 4.4 **Unreasonable behaviour** means behaviour that a reasonable person, having regard to all the circumstances, would expect to victimize, humiliate, undermine or threaten another person.
- 4.5 **Harassment** is defined as unwelcomed behaviour that intimidates, offends or humiliates someone because of a protected attribute, other personal characteristic, or non-employment related factor.
- 4.6 **Sexual harassment** is unwelcome conduct of a sexual nature. It may make a person feel offended, humiliated or intimidated. Conduct can amount to sexual harassment even if the person did not intend to offend, humiliate or intimidate the other person.

Sexual harassment does not have to be directed at a particular individual to be unlawful. Behaviour which creates a hostile working environment for other workplace participants can also be unlawful.

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

- (a) Physical contact such as pinching, touching, grabbing, kissing or hugging;
  - (b) Staring or leering at a person or at parts of their body;
  - (c) Sexual jokes or comments;
  - (d) Requests for sexual favours;
  - (e) Persistent requests to date, or marriage proposals;
  - (f) Sexually explicit conversations;
  - (g) Displays of offensive material such as posters, screen savers, internet material, and social media;
  - (h) Accessing, or downloading sexually explicit material from computer devices;
  - (i) Suggestive comments about a person's body or appearance;
  - (j) Sending rude or offensive emails, attachments or text messages.
- 4.7 **Victimisation** or detrimental action is where a person is retaliated against or subjected to a detriment because they have lodged a complaint, they intend to lodge a complaint or they are involved in a complaint of unlawful conduct.
- 4.8 **Vilification** is a public act which incites hatred, severe contempt, or severe ridicule of a person or group, because of a particular characteristic, including but not limited to race, homosexuality, transgender, transsexuality, HIV/AIDs, religion, and political opinion.
- 4.9 **Worker** is broadly defined, and for the purposes of this policy may mean:
- (a) An employee;
  - (b) A contractor or subcontractor used by ML;
  - (c) An employee of a contractor or subcontractor used by ML;
  - (d) An employee of a labour hire company used by ML;
  - (e) An apprentice or trainee or work experience student employed by or hosted by ML;
  - (f) A student gaining work experience or undertaking a vocational placement with ML;
  - (g) A volunteer or Legatee.
- 4.10 **Workplace violence** is defined as any incident where a worker is threatened or physically attached in the workplace. 'Threat' means a statement or behaviour that causes the person to believe that they are in danger of being physically attached. 'Physical attack' means the direct or indirect application of force by a person to the body of, or the clothing or equipment worn by another person. Workplace violence also covers sexual assault.

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## 5. Expectations and Responsibilities

- 5.1 Expectation of Professional Behaviour
- 5.1.1 ML expects that all workers will treat everyone with professional respect ensuring they follow ML's Code of Conduct and other relevant policies and procedures. Managers and directors are also expected to role model these behaviours, and the entire ML community is expected to practice appropriate workplace behaviour in their daily work activities.
- 5.1.2 Additionally, it is expected that all works will not discriminate, harass, bully, vilify, victimise, act or threaten to act violently towards another person or engage in any other form of unacceptable behaviour as determined by ML.
- 5.1.3 Those which experience or witness unacceptable or inappropriate behaviour are strongly encouraged to report it.

5.1.4 ML's expectations of worker's behaviour, as described within this policy, extends to all places and situation where a worker may perform work for ML. This also extends to work related social functions, work relates trips (such as conferences offsite, interstate and overseas) and events run either by us or where you attend as ML's representative.

5.1.5 This policy and ML's expectations for professional and acceptable workplace behaviours, must be adhered to when you attend any workplace social function, conference or events.

5.2 Responsibilities of all Workers:

5.2.1 All workers (whether paid or not) of all levels of seniority have a responsibility to:

- (a) Ensure that they read and understand this policy. Workers will be required to read and sign this policy when they commence working with ML. They will also be required to undergo periodic training in relation to the content of this and other ML policies. This and other ML policies will be available on ML's intranet. If there is any aspect of this policy which you do not understand, please immediately notify your manager or supervisor.
- (b) Comply with this policy against inappropriate behaviour in the workplace and refrain from engaging in any inappropriate behaviour. You must also refrain from asking, instructing, condoning or encouraging any person to treat another person inappropriately. All workers are required to treat other workers with dignity, fairness, respect and courtesy.
- (c) Report any instances of inappropriate behaviour (whether you are being treated inappropriately or you witness another worker being treated inappropriately). ML encourages you to do this so that it can take steps to prevent inappropriate behaviour from occurring, or reoccurring in the workplace.
- (d) Offer appropriate support to anyone who is being treated inappropriately and let them know where they can get help and advice in accordance with this policy.
- (e) Maintain confidentiality if you provide information during the investigation of a complaint.
- (f) Cooperate in any preventative, investigative or remedial steps that ML takes in relation to inappropriate behaviour.

5.3 Responsibilities of all Directors and Managers:

5.3.1 ML has a responsibility to take reasonable steps to prevent inappropriate behaviour. This means that all Directors and Managers of staff will endeavour to:

- (a) Take steps to ensure that workers are aware of and understand the content of this policy and ML's commitment to all staff being treated with dignity, fairness and respect, and take steps to promote this policy in the workplace.
- (b) Model appropriate behaviour at all times.
- (c) Monitor the working environment to ensure that acceptable standards of conduct are observed and ensure that, within their area of responsibility, work practices are fair.
- (d) Make sure that workers know where and how to access this and other ML policies.
- (e) Treat all complaints of inappropriate behaviour seriously and take prompt action to support ML's efforts to investigate and resolve any complaints on an impartial and fair basis.
- (f) Follow up at the conclusion of any disciplinary process to ensure that any conduct in breach of this policy has ceased and to minimise the risk of any adverse repercussions and victimisation.

## 6. Bullying

### 6.1 What is bullying?

- 6.1.1 A person may be bullied by a supervisor, co-worker, contractor, secondee, volunteer or client or a group of workers. Bullying can occur between employees of varying seniority and it is possible for a senior worker to be bullied by a more junior worker or workers.
- 6.1.2 All workers must not engage in conduct that is bullying.
- 6.1.3 Bullying may occur in the workplace, but it may also occur at work-related conferences or functions supported by ML or at another workplace or function or location where the employee, volunteer, contractor or other authorised personnel is present for the purpose of carrying out ML's work.
- 6.1.4 Bullying can be carried out verbally, physically, or in writing via email, internet chat rooms, social networking sites, instant messaging and mobile phone technologies such as text messaging.
- 6.1.5 While a single incident of bullying type behaviour may not constitute workplace bullying, it will not be ignored or condoned, and it may amount to a breach of the organisation's other policies or unsatisfactory performance.
- 6.1.6 A broad range of behaviours can be bullying, and these behaviours can be direct or indirect.
- 6.1.7 Examples of direct bullying may include:
  - (a) Verbal abuse, threats, or insults;
  - (b) Putting someone down or belittling them;
  - (c) Spreading rumours or innuendo about someone;
  - (d) Interfering with someone's personal property or work equipment;
  - (e) Practical jokes.
- 6.1.8 Examples of indirect forms of bullying may include:
  - (a) Unjustified criticism or complaints;
  - (b) Deliberately excluding someone from workplace activities;
  - (c) Deliberately denying access to information or other resources;
  - (d) Withholding information that is vital for effective work performance;
  - (e) Setting tasks that are unreasonably above or below a worker's ability;
  - (f) Deliberately changing work arrangements, such as rosters and leave to inconvenience a particular worker or workers;
  - (g) Setting timelines that are very difficult to achieve;
  - (h) Excessive scrutiny at work;
  - (i) Sabotaging someone's work.
- 6.1.9 Some behaviour, which might constitute bullying, may also amount to a criminal offence (such as physical assault, threats or stalking) and may be reported to the Police.

### 6.2 What is not bullying?

- 6.2.1 Differences of opinion and disagreements are generally not workplace bullying. You can have differences or disagreements in the workplace without bullying occurring.
- 6.2.2 Additionally, management is entitled to direct work or provide performance feedback. This is not bullying. Although performance feedback may upset you, it does not mean that the

management action was bullying. However, management action that is excessive or over the top may be bullying. Essentially, management action is not bullying if it is reasonable.

- 6.2.3 Reasonable management actions, which are carried out in a reasonable manner and in accordance with ML's procedures, are not bullying.
- 6.2.4 For example, the following actions are not considered bullying, if carried out in a fair and reasonable way:
- (a) Setting performance goals, standards and deadlines;
  - (b) Allocating work to a worker;
  - (c) Rostering and allocating working hours;
  - (d) Transferring a worker;
  - (e) Deciding not to select a worker for promotion;
  - (f) Informing a worker about unsatisfactory work performance;
  - (g) Informing a worker about inappropriate behaviour;
  - (h) Implementing organisational changes;
  - (i) Following a performance management process;
  - (j) Constructive feedback;
  - (k) Workplace change or restructuring.

### 6.3 Reporting Bullying

- 6.3.1 ML encourages all employees, volunteers, contractors and other authorised personnel to be proactive about discouraging and reporting bullying that they become aware of, to take steps to build a culture that does not allow bullying to occur, and to take appropriate action in accordance with ML's complaints handling process in response to any bullying that they experience or witness.

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## 7. Discrimination and Harassment

### 7.1 Discrimination

- 7.1.1 All workers must not engage in conduct amounting to unlawful discrimination.
- 7.1.2 Discrimination is the unfavourable treatment of an individual or group, because they have a legally protected attribute. This may lead to disadvantage for some and advantage for others. It can be classified as either direct or indirect and is unlawful in areas such as employment, the workplace and in recruitment.
- 7.1.3 It is unlawful to discriminate against a person (that is, to treat them less favourably) on the basis of the following attributes:
- (a) Age;
  - (b) Disability;
  - (c) Physical features;
  - (d) Race;
  - (e) Religious belief or activity;
  - (f) Political belief or activity;
  - (g) Industrial activity;
  - (h) Industrial organisation;
  - (i) Employment activity;
  - (j) Gender;
  - (k) Marital, parental or carer status;

- (l) Sexual orientation;
- (m) Gender identity;
- (n) Pregnancy;
- (o) Breastfeeding;
- (p) Personal association with a person who is identified by reference to any of the above attributes.

7.1.4 The law however provides that, in some circumstances, an otherwise unlawful discriminatory action may not be discrimination because an exception applies. This includes where the action is permissible under another law or is based on the inherent requirements of the particular position concerned.

## 7.2 Harassment

7.2.1 All workers must not engage in conduct that is unlawful harassment.

7.2.2 Harassment occurs when unwelcome behaviour causes the person affected to feel intimidated, insulted or humiliated and a reasonable person would expect it would have this effect. It can occur in a single incident or a series of incidents. Harassment can be experienced by witnessing behaviour not directed to that person (for example, overhearing a lewd joke).

7.2.3 It is unlawful to sexually harass, harass or vilify based on a race or disability.

7.2.4 Harassment can include behaviour such as (but not limited to):

- (a) Telling insulting jokes about a particular racial or religious group;
- (b) Sending explicit or sexually suggestive emails, text messages or memos;
- (c) Displaying racially offensive or pornographic images or sending explicit images or footage;
- (d) Making derogatory comments or taunts about a person's disability;
- (e) Asking intrusive questions about someone's personal life, including someone's sex life; and/or
- (f) Repeatedly making jokes at a colleague's expense.

## 7.3 Vilification

7.3.1 Vilification is behaviour that encourages others to hate, disrespect, or abuse a person or group of people because of their race or religion. This includes spoken, written, online or physical behaviour towards a particular race or religious group that encourages others to ridicule them, be hateful or violent towards them, damage their property, or make false claims against them.

7.3.2 It is also against the law to give permission or help someone to vilify others, for example, by publishing or distributing information about them.

7.3.3 Some behaviour may not be vilification, if it is reasonable and done in good faith, such as publishing a media report about racist behaviour. Some comments or jokes about a person's race, or religion, may not be vilification, but they could still be discriminatory if they happen at work.

## 8. Sexual Harassment

- 8.1 Sexual harassment is conduct of a sexual nature that is unwanted, or unwelcomed by the person who experiences it, and the behaviour could be expected to make that person feel offended, humiliated or intimidated.
- 8.2 Sexual harassment occurs if a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would feel offended, humiliated or intimidated. Sexual harassment can be physical, spoken or written. It may include, but it is not limited to:
- (a) Comments about a person's private life or the way they look;
  - (b) Sexually suggestive behaviour, such as leering or staring;
  - (c) Brushing up against someone, touching, fondling or hugging;
  - (d) Sexually suggestive comments or jokes;
  - (e) Displaying offensive screen savers, photos, calendars or objects;
  - (f) Repeated requests to date or for marriage;
  - (g) Requests for sex;
  - (h) Sexually explicit emails, text messages or posts on social networking sites.
- 8.3 It is important to understand that just because someone does not object to inappropriate behaviour in the workplace at the time, it does not mean that they are consenting to the behaviour.
- 8.4 Like bullying, sexual harassment may occur in the workplace, but it may also occur at work-related conferences or functions supported by ML or at another workplace or function or location where the employee, volunteer, contractor or other authorised personnel is present for the purpose of carrying out ML's work.
- 8.5 A single incident is enough to constitute sexual harassment – it doesn't have to be repeated and like bullying, motive is irrelevant in determining whether sexual harassment occurred or did not occur.
- 8.6 If an interaction however is consensual, welcome and reciprocated, it is not sexual harassment.
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## 9. Victimisation

- 9.1 Victimisation is subjecting or threatening to subject someone to detriment because they have asserted their rights under equal opportunity law, made a complaint, helped someone else make a complaint, or refused to do something because it would be discrimination, sexual harassment or victimisation. Victimisation is against the law.
- 9.2 For example, a worker is refused a promotion and told that it is because "their complaint of bullying last year showed that they are not a team player".
- 9.3 It is also victimisation to threaten someone (such as a witness) who may be involved in investigating a concern or complaint.
- 9.4 Victimisation is a very serious breach of this policy and is likely (depending on the severity and circumstances) to result in formal discipline against the perpetrator.
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## 10. Making a complaint

- 10.1 Do not ignore inappropriate behaviour. This may lead the person to think that his/her actions are permissible and may encourage him/her. If you believe you have been treated inappropriate or you witness inappropriate behaviour, ML encourages you to report your concerns to your manager or director. If your manager or director is the subject of your complaint, you should report the complaint to their manager, the Deputy Chief Executive Officer or Chief Executive Officer.
- 10.2 ML will take steps to minimise any risk that you will be victimised for reporting a genuine concern. It will be dealt with in a sensitive, fair and confidential way. ML encourages you to report incidences of inappropriate behaviour so that it can take steps to prevent it from occurring or reoccurring.
- 10.3 If you are the victim of inappropriate behaviour, depending on the nature of and the severity of allegations, you may wish for an informal or formal dispute resolution procedure to apply. Your decision to attempt to resolve the matter using an informal method does not preclude you from also making a formal complaint at any time.
- 10.4 The possible methods for resolving the matter which you might wish to explore are:

### 10.4.1 Informal Procedure

#### (a) The direct approach by you

You may choose to inform the person engaging in this behaviour that you want them to stop. This is often the easiest way to resolve the matter quickly.

However, there may be circumstances where you do not feel comfortable doing so or the level of inappropriate behaviour (for example, the number of workers or seniority of the workers involved, or the severity of the inappropriate behaviour) makes it inappropriate to use the direct approach.

If you do witness unacceptable behaviour, you can play a key role in challenging the social norms and attitudes that perpetuate unacceptable behaviours, as well as take action to respond to or prevent further unacceptable behaviour.

Should you feel safe and comfortable to challenge the unacceptable behaviour, ML encourages witnesses to:

- (b) Let the person know what they are doing is unacceptable; and/or
- (c) Distract the individual to diffuse the behaviour; and/or
- (d) Ask for help from others around; and
- (e) Always ensure that you ask the individual who is receiving the unacceptable behaviour, if they are ok and if you can help them.

All workers are strongly encouraged to act and raise a concern or lodge a complaint even if they are not a party to an incident. For example, a worker may overhear a racist joke, witness a person assaulting, harassing, intimidating or bullying another person. All workers can make a report and contribute to preventing unacceptable behaviours at work.

#### (f) The direct approach by a third party

If you are not comfortable in communicating to the person by yourself, or if, having done so, the conduct does not stop, you may prefer to seek the assistance of your manager, Deputy Chief Executive Officer or the Chief Executive Officer to resolve the situation.

They may, with your consent, approach the perpetrator privately on your behalf, raising your concerns and reiterating ML's policy against inappropriate behaviour. During the process, your name will probably need to be disclosed to the alleged person, because that person has a right to know who has made an allegation against them.

Anyone requested to act on behalf of the person affected should adopt a confidential and non-confrontational approach with a view to resolving the issue.

If the informal procedures are invoked:

- The complaint and its resolution are to be documented and those notes retained in a confidential manner by the manager or director involved in facilitating a discussion to resolve the complaint or prevent the behaviour or conduct from reoccurring.
- There is to be appropriate follow-up to ensure the situation has been effectively resolved and there have been no repercussions as a result of the complaint.

There are however instances where ML will act on a matter formally or without complaint, or even if the person making a complaint does not want further action taken. These instances include circumstances where serious allegations of unacceptable behaviour have occurred, where action either should be taken or where ML is obliged to take action. Such instances, may also be considered a criminal offence, and which ML may report the matter to the Police particularly where it involves physical molestation or assault, indecent exposure or stalking and/or assault or sexual assault.

#### 10.4.2 Formal Complaint Procedure

If use of the informal procedure fails to rectify the matter, or you do not wish to use either of the informal options, you can have your complaint dealt with through ML's formal complaint resolution procedure. You do not have to exhaust the informal procedures before issuing a formal complaint.

ML has a Grievance and Complaints Handling Policy which outlines how you make a formal complaint and the process by which such complaints are investigated and resolved.

#### 10.4.3 Your Right to Approach External Agencies

It is your right to seek advice from, or report a complaint or grievance to, state and federal agencies concerned with equal opportunity, discrimination and occupational health and safety.

It is also your right to report the matter to the police where criminal acts are involved such as physical assault or threats of violence.

You may also wish to seek advice from your union or other representative.

#### 10.5 False, Malicious and Vexatious Complaints

10.5.1 Reports of unacceptable behaviour must be genuine and honest. If you are found to have made a false or vexatious complaint against another person this may lead to disciplinary action.

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## **11. Consequences of a Breach of this Policy**

- 11.1 ML emphasises the need to comply with the requirements of this policy. Breaches of this policy and its procedures may result in suspension of access to ML's information resources.
  - 11.2 Any employee found to be in breach of the requirements of this policy may be subject to disciplinary action, up to and including termination of employment. Employees should refer to the Performance Management, Misconduct and Disciplinary Action Policy and Procedure.
  - 11.3 Similarly, a Legatee or volunteer found to be in breach of the requirements of this policy may be subject to disciplinary action in accordance with ML's Legatee Code of Conduct.
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## **12. Policy Review**

- 12.1 ML may make changes to this Policy at any time and will inform Legatees, volunteers and staff accordingly.
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## **13. Authorisation**

Approved by Melbourne Legacy Chief Executive Officer:

**Justin Elwin**

Date: 23 / 10 / 2018

Ratified by:

**Melbourne Legacy Board of Management**

Date: 23 / 10 / 2018

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