

# Discrimination, Bullying, Harassment and Sexual Misconduct Policy

# The Blue Hand Group



# Discrimination, Bullying, Harassment and Sexual Misconduct Policy

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# Discrimination, Bullying, Harassment, and Sexual Misconduct Policy

## 1 Purpose

To promote an environment free from Discrimination, Bullying, Harassment, and Sexual Misconduct. This Policy outlines the key principles governing the Charity's approach to preventing and responding to Discrimination, Bullying, Harassment, and Sexual Misconduct.

## 2 Scope

This policy applies to all Volunteers, Employees, and Charity Members while they are, or have been, engaged in Charity-related activities on-site, off-site, or in the digital environment. The scope of the policy includes conduct or activities that occur at or in connection with, but are not limited to:

1. Charity sites and partner sites
2. Charity-affiliated storage sites
3. Managed digital environments
4. Conduct and activities related to the Charity's business that are not conducted on Charity premises, including:
  - a. placements and internships
  - b. conferences
  - c. events and functions.

If the reported behaviour does not have the requisite connection to the Charity, the Charity will provide support and guidance about accessing relevant support services.

## 3 Policy Statement

The Charity aims to develop and implement a range of prevention, support, and response strategies to minimise the risks to the Charity community of experiencing Discrimination, Bullying, Harassment, and Sexual Misconduct.



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## 4 Principles

### 4.1 Prevention principles

Prevention is a shared responsibility that involves everyone. The Charity:

1. Expects Volunteers, Employees, Students, and Charity Members to behave in a way that promotes a safe and inclusive learning and working environment.
2. Will use prevention strategies including education, awareness-raising, provision of information, capacity-building, counselling, and other supports to promote respectful behaviour.
3. Encourages and values Active Bystander intervention by Volunteers, Employees, Students, and Charity Members to prevent or stop Discrimination, Bullying, Harassment, and Sexual Misconduct from occurring or continuing.
4. Expects leaders and managers to champion culture change, take measures to improve diversity and inclusion, set clear expectations, and model respectful behaviour in their interactions at work.

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## 4.2 Support Principles

The Charity will provide support and advice to individuals and Charity Members affected by Discrimination, Bullying, Harassment, or Sexual Misconduct. In doing so, the Charity will:

- Respond to reports or disclosures in a manner that is compassionate, timely, and supportive, and provide access to specialist support and advice.
- Prioritise the well-being of the individual disclosing or reporting incidents, underpinned by a “safety for all” approach when responding to any report or disclosure, when seeking a resolution and when addressing any formal Complaints.
- Aim to promote a Charity-wide commitment to following a Trauma-informed response in managing disclosures and reports to minimise further harm or trauma.



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## 4.3 Disclosure and reporting principles

Stronger reporting enhances accountability and responsibility and allows the Charity to monitor and improve systems and responses. The Charity:

1. Encourages individuals to report incidents they have experienced or witnessed and provides diverse reporting options, ranging from informal disclosure to anonymous reporting and the lodgment of formal Complaints.
2. Aims to respect the choice of an individual to make a confidential disclosure or to make a report. However, in respect of a confidential disclosure, the Charity may need to take action when there is an unacceptable level of risk of further harm to the individual or to others or to comply with mandatory reporting obligations such as those prescribed by child safety legislation. The Charity will inform the individual as soon as possible if it needs to do so.
3. Will not tolerate Victimisation in relation to disclosures or Complaints, or against an individual engaging in Active Bystander intervention.
4. Will carry out the Complaint resolution process in good faith and Complaints that are frivolous, vexatious, misconceived, or lacking in substance will be rejected if a preliminary investigation of the facts indicates this.



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## 4.4 Response principles

In responding to incidents, the focus will be on the health and well-being of the individuals involved, providing support and education and, as far as possible, providing meaningful outcomes for affected individuals. The Charity will:

1. Respond in a manner informed by the nature of the experience and led by considerations of the needs of the individual who experienced the incident.
2. Take disclosures and reports seriously and investigate where appropriate with reference to the relevant Charity Code of Conduct and supporting Policies and Procedures.
3. Follow the principles of Procedural Fairness as required.
4. Respond appropriately to suspected perpetrators of Discrimination, Bullying, Harassment, or Sexual Misconduct including to ensure they are also treated fairly and are provided with information about relevant support services.
5. Keep Volunteers, Employees, Charity Partners, Students, or Charity Members who disclose or report an incident informed of any action taken in relation to their disclosure, report, or Complaint and the expected timelines for resolution.
6. Manage Volunteers, Employees, Charity Partners, and Student or Employee misconduct according to the relevant Policies and Procedures, where an allegation of Discrimination, Bullying, Harassment, or Sexual Misconduct is proven.



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## 4.5 Record-keeping

The Charity will:

1. Keep appropriate and confidential records of all disclosures and Complaints.
2. Monitor and improve responses.
3. Provide de-identified annual reports to Council detailing outcomes, recommendations, trends, and emerging issues related to this Policy.

## 5 References

Nil.

## 6 Schedules

This policy must be read in conjunction with its subordinate schedules as provided in the table below.

## 7 Policy Information

Relevant Legislation: Age Discrimination Act 2004 (Cth), Anti-Discrimination Act 1977 (NSW), Australian Human Rights Commission Act 1986 (Cth), Disability Discrimination Act 1992 (Cth), Disability Inclusion Act 2014 (NSW), Fair Work Act 2009 (Cth), Human Rights Act 2019 (NSW), Public Sector Ethics Act 1994 (NSW), Racial Discrimination Act 1975 (Cth), Racial Discrimination Act 1975 (Cth), Sex Discrimination Act 1984 (Cth), Sex Discrimination and Fair Work (Respect at Work) Amendment Bill 2021 (Cth) and Workplace Gender Equality Act 2012 (Cth).

Related Policies: Code of Conduct Policy, Employee Complaints and Grievances Policy, Employee Equity and Diversity Policy, Harassment and Discrimination Complaint Resolution for Incidents Policy and Procedure, Grievances Resolution Policy, Disability Policy and Procedure.





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Related Procedures: Disciplinary Action for Misconduct or Serious Misconduct Procedure, Employee Health and Wellbeing Procedure, Volunteer General Misconduct Procedure, Grievance Resolution Procedure, and Termination of Employment Procedure.

Related forms, publications, and websites: Feedback, Complaints and Appeals, Employee Workplace Bullying and Harassment Complaint Resolution Schedule, and General Misconduct Procedure Penalty Schedule.

Definitions:

**Active Bystander:** Anyone who witnesses, or becomes aware of, someone being harassed, bullied, abused, assaulted, or discriminated against by another person, and intervenes to potentially prevent an incident or escalation.

**Bullying:** Bullying occurs when a person or group of people repeatedly behaves unreasonably towards a person or group of persons, and that behaviour creates a risk to health and safety.

**Complaint:** A Complaint is an “expression of dissatisfaction made to or about the Charity, related to its products, services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required”.

**Decision:** A determination made by an Employee, contractor or other authorised delegate in the course of their duties on behalf of the Charity.



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**Discrimination:** Occurs when a person or a group of people are treated less favourably than another person or group because of race, colour, national or ethnic origin; gender or marital status; disability; religion or political beliefs; sexual preference; or some other central characteristic.

**Employee:** A person employed by the Charity and whose conditions of employment are covered by the BHG Enterprise Agreement and includes persons employed on a continuing, volunteer, fixed term, or casual basis. Employees also include senior Employees whose conditions of employment are covered by a written agreement or contract with the Charity.

**Harassment:** Occurs when a person is made to feel intimidated, insulted, or humiliated because of their race, colour, national or ethnic origin; sex; disability; sexual preference; or some other characteristic specified under anti-discrimination or human rights legislation. Harassment may include behaviour, comments, or images which a reasonable person would consider to be offensive, and/or humiliating.

**Policy:** A high-level strategic directive that establishes a principle-based approach to a subject. Policy is operationalised through Procedures that give instructions and set out processes to implement a Policy.

**Procedural Fairness:** Has the meaning ascribed to it from time to time by the applicable common law of the State of New South Wales.

**Procedure:** An operational instruction that sets out the process to operationalise a Policy.



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**Sexual Harassment:** Sexual Harassment is any unwanted or unwelcome sexual behaviour which makes a person feel offended, humiliated, or intimidated, or occurs in circumstances where a reasonable person would have anticipated the possibility that the other person would be offended, humiliated, or intimidated by the conduct. Sexual Harassment can take many different forms.

**Sexual Misconduct:** A broad term used to describe a range of isolated or combined behaviours of a sexual nature, used without consent or that are otherwise unwelcome.

**Sexual Offence:** Any criminal offense of a sexual nature under criminal law.

**Student:** A person who is enrolled in a registered primary school, high school, or university.

**Trauma-Informed:** A response to Discrimination, Bullying, Harassment, Sexual Misconduct, or assault that recognises the impact of trauma and prioritises the physical, psychological and emotional safety of all the parties associated with a disclosure or report.

**Charity:** The term "Charity" or "BHG" means the Blue Hand Group.

**Charity Members:** Employees of the Charity whose conditions of employment are covered by the BHG Enterprise Agreement whether full-time or fractional, continuing, fixed-term or casual, including senior Employees whose conditions of employment are covered by a written agreement or contract with the Charity; Members of the Charity Board; and Visiting representatives of Charity partners.



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**Charity Partners:** Refers to businesses and/or registered organisations that are in partnership with the Charity. This includes providing and/or receiving donations, supplies, volunteers, services, and excess stock.

**Victimisation:** Any unfavourable treatment, or threats of unfavourable treatment against a person as a result of their actual or intended involvement in a complaint. Such involvement might include making a complaint or supplying information or producing documents to someone making a complaint.

This document is in effect as of 23/11/2022.

