

Anti-Discrimination and Equal Opportunity Policy

1. Purpose

Everyone, no matter their personal attributes or characteristics has the right to a healthy and safe and respectful workplace. Mind-Edis committed to providing and maintaining a safe working environment that is free of all forms of discrimination.

This policy reinforces Mind-Ed's commitment to eliminating discrimination and harassment across all aspects of the work environment, to ensure individuals or groups are not treated less favourably or excluded from the same opportunities as others in a similar situation, because of personal attributes or characteristics that are protected under legislation.

Workers may be personally liable if allegations of discrimination are substantiated against them. Mind-Edmay also be personally or vicariously liable for the unlawful conduct of its workers.

This policy outlines the decisions, behaviours and actions that constitute discrimination, the related policies and procedures to manage disclosures and complaints related to discrimination, and the consequences of non-compliance with this policy.

2. Scope

This policy applies to all Mind-Ed workers, defined as a person who carries out work, whether paid or unpaid, with Mind-Ed including: the Mind-Ed Board, Professional Liaison Team, Professional Advisors, employees, contractors, agency workers, volunteers, interns, work experience staff and statutory employees (board, executive committee).

This policy applies to all workers at any time when they are engaging in work duties, interacting with others while working, and/or when they are at the workplace (including when engaging with others over technology such as video meetings, working remotely, and/or when at social or off-site events in connection with their work). The protections under this policy extend to prospective workers of Mind-Ed, and members of the public in their dealings with Mind-Ed.

3. Policy

Mind-Ed recognises that under anti-discrimination and equal opportunity legislation, discrimination is unlawful. Mind-Ed rejects all forms of discrimination and is committed to creating a workplace that is free from all forms of unlawful discrimination and behaviour which contribute to unsafe work environments. Mind-Edwill respond to any actions or behaviour that are deemed to be in breach of this policy, in accordance with Mind-Ed's Code of Conduct.



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Mind-Ed recognises that harassment, sexual harassment and victimisation are unlawful. Mind-Ed also recognises that it has a positive duty to eliminate discrimination, and harassment whether sexual or otherwise, hostile workplace environments and acts of victimisation, as far as possible.

Mind-Ed does not tolerate vilification.

Mind-Ed will promote anti-discrimination and equal opportunity strategies through appropriate reporting mechanisms, procedures and learning opportunities, to:

- create awareness of discrimination and how it affects individuals and the broader community
- identify, promote and build on good practice initiatives to prevent and reduce discrimination, and
- empower communities and individuals to take action to prevent and reduce discrimination and to seek redress when it occurs.

1. Roles and responsibilities

1.1 The Mind-Ed framework, in conjunction with Mind-Ed's Health, safety and wellbeing policy, Workplace bullying and harassment policy, Workplace sexual, sex and gender-based harassment policy and Anti-racism policy, defines key roles and responsibilities related to creating and maintaining a healthy and safe work environment.

2. Guiding principles

Mind-Ed:

2.1.1 promotes an organisational culture that is inclusive of all

2.1.2 acknowledges its responsibilities under applicable equal opportunity, work health and safety legislation

2.1.3 does not tolerate unlawful discrimination in any form

2.1.4 does not tolerate victimisation and vilification

2.1.5 recognises that discriminatory conduct may also constitute sexual harassment, harassment or victimisation in contravention of Mind-Ed's Workplace bullying and harassment policy, Sexual, sex and gender-based harassment policy and Anti-racism policy



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2.1.6 is an equal opportunity employer and will provide equality in employment and opportunities for all people employed or seeking employment with Mind-Ed

2.1.7 sees it as a shared responsibility to combat discrimination and challenge discrimination by supporting individuals who raise concerns and active bystanders who speak up

2.1.8 is committed to providing a work environment that implements reasonable adjustments to remove identified barriers in work practices, procedures or the environment to enable a worker to perform their role successfully (see section 3 below)

2.1.9 is committed to providing a work environment that implements special measures where necessary to promote equality in recognition that some workers face entrenched discrimination (see section 4 below)

2.1.10 recognises merit (skills, abilities and knowledge) as the basis for employment, performance assessment, training, development and promotion decisions

2.1.11 will manage all complaints of discrimination sensitively and fairly, adopting a trauma informed and culturally safe approach that actively listens to the needs of the complainant

2.1.12 will provide workers with adequate training and instruction to manage the risk of workplace discrimination in line with their role and the risks identified.

2.2 As part of Mind-Ed's commitment to being an equal opportunity employer:

- every person will be given a fair and equitable chance to compete for appointment, promotion or transfer, and to pursue their career as effectively as others
- employment decisions relating to appointment, promotion and career development will be determined according to individual merit and competence
- consistent with these principles, Mind-Ed does not condone any form of unlawful discrimination or vilification, including that which is based on any protected attributes or personal characteristics, and
- in all cases, no factors other than performance and competence are to be used as the basis for performance assessment, training and development opportunities, and promotions.



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3. Reasonable adjustments (disability)

3.1 Both Commonwealth and state/territory legislation require employers to make reasonable adjustments for employees with a disability. Mind-Ed will make reasonable adjustments for workers with disabilities unless it would impose an unjustifiable hardship to do so.

Mind-Ed may consider a range of factors in determining whether an adjustment is reasonable, which may include:

- the employee's circumstances, including the nature of their disability
- the nature of the employee's role or the role that is being offered
- the nature of the adjustment required to accommodate the employee's disability
- the financial circumstances of the organisation
- the size and nature of Mind-Ed's workplace
- the effect on Mind-Ed's workplace/business of making the adjustment, including the financial impact, the number of people who would benefit or be disadvantaged by doing so, and the impact on efficiency and productivity and, if applicable, on customer service
- the consequences for the person or employee of not making the adjustment
- the consequences for Mind-Ed of not making the adjustment, and
- any relevant action plan made under Commonwealth disability discrimination legislation.

3.2 Mind-Ed will manage any requests for reasonable adjustments in accordance with the Reasonable adjustments policy.

4. Special measures

4.1 A 'special measure' is a positive action or actions intended to achieve equality for specifically identified groups as defined in relevant anti-discrimination legislation.

4.2 All discrimination legislation (i.e. Commonwealth and state/territory) which prohibit discrimination on the ground of disability, sex, race and age has provisions which make clear that positive action to assist historically disadvantaged groups, for the purpose of achieving equality for members of that group, will not be considered unlawful discrimination.

4.3 As part of Mind-Ed's workforce planning and recruitment procedures, 'special measures' may be applied as part of targeted recruitment strategies which are aimed at improving employment opportunities for identified groups, such as



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Aboriginal and Torres Strait Islander Peoples, people with a disability, and LGBTQIA+ communities.

5. Responding to discrimination

Self-management

5.1 If you are experiencing or witnessing discrimination, Mind-Ed encourages you to take action which may help resolve the problem if you feel comfortable and safe to do so.

5.2 You have every right to make someone aware that their behaviour or conduct is making you feel uncomfortable or unsafe. Where you feel comfortable and it is safe for you to do so, you can ask the person to stop or make it clear how you are finding their behaviour unwelcome or upsetting. You may wish to speak to your manager first to seek guidance on how to have this conversation.

5.3 This can be an effective way of stopping the behaviour before it gets worse. In some circumstances, the self-management approach may be inappropriate, such as if there is a power imbalance between you and/or the other person(s), if previous attempts to discuss your concerns have been unsuccessful, or if there are safety concerns.

5.4 Self-management is never appropriate if it is unsafe or against your wishes.

Reporting to a manager or People and Culture Business Partner

5.5 If you do not feel comfortable asking the person to stop, or you do not feel safe to do so, or if you would like to make a report about the behaviour, contact either the Chair or other Board member you feel most comfortable approaching to arrange a meeting.

Guidance on how to make a report or complaint

5.6 Further detailed guidance on how to make a report or complaint – including in relation to discrimination, is found in the Feedback and Complaints Policy.

6. Support

6.1 Immediately following an incident, it is important to seek support. In addition to the support of your manager, you may seek help from:



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6.1.1 Mind-Ed's Employee Assistance Program (EAP), a confidential counselling, coaching and wellbeing service that is available to all employees and their immediate family members.

6.1.2 Additional specialist support available externally. Contact numbers for these services can be found at Appendix A.

7. Non-compliance

7.1 Non-compliance with this policy will be managed in accordance with Mind-Ed's Code of conduct, Code of conduct for board and committee members, and other relevant policies listed in the related documents section of this policy.



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Term	Definition
Discrimination	Discrimination is treating, or proposing to treat, someone unfavourably because of a personal characteristic protected by Commonwealth and state/territory anti-discrimination and equal opportunity laws. - Protected attributes and personal characteristics include: - a disability or impairment - parental status or status as a carer; for example, because they are responsible for caring for children or other family members - race, colour, descent, national origin, or ethnic background - age (whether young or old, or because of age in general) - sex, gender or sex characteristics - sexual identity - gender identity (including gender expression) - genetic information - employment or industrial activity, including being a member of an industrial organisation like a trade union or taking part in industrial activity, or deciding not to join a union - employment status or profession, trade, occupation or calling - religious conviction, belief, affiliation or activity, including religious appearance or dress - pregnancy and potential pregnancy - breastfeeding - sexuality, sexual orientation, intersex status, including gay, lesbian, bisexual, transsexual, transgender, queer and heterosexual - marital, relationship or domestic partnership status, whether married, divorced, unmarried or in a de facto relationship or same sex relationship - lawful sexual activity - irrelevant criminal records, expunged homosexual convictions and spent convictions - political conviction, belief, opinion, affiliation or activity - social origin - irrelevant medical record - record of a person sex having been altered under relevant legislation - publication of a person's details on relevant Fines and Penalties legislation - physical features - an association with someone who has, or is assumed to have, one of these attributes or characteristics, such as being the parent of a child with a disability. Some discriminatory actions or behaviours can also constitute sexual and or sex/gender-based harassment.



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Direct discrimination	Is when a person or group of people treats, or proposes to treat, a person with a protected attribute or personal characteristic unfavourably because of that attribute. In determining whether a person directly discriminates, it is irrelevant whether or not the attribute is the only or dominant reason for the unfavourable treatment, provided that it is a substantial reason. Examples of direct discrimination include: • denying employment to a prospective employee because she is pregnant • making derogatory comments about an individual's race • denying leave for an individual to attend a religious event. Both Commonwealth and state/territory legislation prohibit direct discrimination.
Indirect discrimination	Indirect discrimination Occurs when an unreasonable requirement, condition or practice is imposed that has or is likely to have the effect of disadvantaging people with a protected attribute or personal characteristic protected by law. Whether a requirement, condition or practice (or proposed requirement, condition or practice) is reasonable depends on all relevant circumstances. Examples of indirect discrimination include: • setting experience/qualifications for a role which are non-essential nor an inherent requirement for the role, which discriminates against younger applicants • setting physical requirements for a role that are not linked to an inherent requirement, such as height or weight restrictions • making decisions on redundancy based on whether a worker has had a worker's compensation claim. Both Commonwealth and state/territory legislation prohibit indirect discrimination.



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Unlawful harassment	Unlawful harassment is a form of unlawful discrimination. Unlawful harassment includes sexual harassment and other types of harassment which the law does not allow in specific circumstances. In general, unlawful harassment is any form of behaviour that: • is unwelcome (not wanted) or uninvited (not asked for) • a reasonable person would have anticipated would humiliate, offend or intimidate someone exposed to the conduct, and • is based on one of the grounds for unlawful discrimination. In some cases, a single action or incident can create unlawful harassment. In other cases, there may need to be a persistent pattern of behaviour before unlawful harassment has occurred. Unlawful harassment includes, but is not limited to: • unlawful sexual harassment (see the Workplace sexual, sex and gender-based harassment policy for more information) • verbal abuse or comments that put down or stereotype people because of any grounds for discrimination, including their race, sexual orientation, gender identity or expression, intersex, pregnancy, disability • jokes based on any ground of discrimination, including race, sexual orientation, gender identity or expression, intersex, pregnancy, disability • mimicking someone's accent, or the habits of someone with a disability • offensive gestures based on any grounds for discrimination, including race, sexual orientation, gender identity or expression, intersex, pregnancy, disability • ignoring or isolating a person or group because of any grounds for discrimination, including their race, sexual orientation, gender identity or expression, intersex, pregnancy, disability • display or circulation of racist, pornographic or other offensive material (including in electronic format).
Victimisation	Victimisation Refers to subjecting a person to some detriment, for example, ostracising a worker. Workers must not victimise another worker because they have made or propose to make a complaint or because they have provided information related to a complaint.



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Vilification	Vilification is behaviour that incites hatred, serious contempt, revulsion or severe ridicule for a person or group of people because of their race or religion. Behaviour that is likely to constitute racial or religious vilification includes: • speaking about a person's race or religion in a way that could make other people hate or ridicule them • publishing claims that a racial or religious group is involved in serious crimes without any proof • repeated and serious spoken or physical abuse about the race or religion of another person • encouraging violence against people who belong to a particular race or religion, or damaging their property • encouraging people to hate a racial or religious group using flyers, stickers, posters, a speech or publication, or websites, email or social media. It is also unlawful to give permission or help a person or group of people commit this behaviour. Behaviour that is not likely to be vilification includes: • being critical of a religion, or debating racial or religious ideas, in a way that does not encourage others to hate racial or religious groups • actions that offend people of a particular race or religion, but do not encourage others to hate, disrespect or abuse racial or religious groups. Comments, jokes or other acts related to the race or religion of a person may not be vilification, but they could still be the basis for a complaint of discrimination if they take place in one of the areas of public life covered by relevant legislation.
Worker	A person who carries out work for Mind-Ed, including: Board, employees, contractors and staff, volunteers, interns, work experience staff and statutory appointees (board and committee) whether paid or unpaid

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8. Relevant legislation

Age Discrimination Act 2004 (Cth)

Australian Human Rights Commission Act 1986 (Cth)

Disability Discrimination Act 1992 (Cth)

Racial Discrimination Act 1975 (Cth)

Sex Discrimination Act 1984 (Cth)

Fair Work Act 2009 (Cth)

Equal Opportunity Act 1984 (WA)

