All of Brighton Grammar School’s policies are intended to be up to date and be consistent with all relevant laws.

Employees and contractors are expected to comply with all applicable policies.

Various parts of the policies require managers and staff to exercise discretion and the policies are not intended to be applied in a legalistic or prescriptive manner.

These policies may be varied by Brighton Grammar School from time to time, in its absolute discretion.

The policies do not form part of an employee’s contract of employment.

**Purpose**

To promote equal opportunity in the workplace and ensure that the learning and working environment is positive and supportive for all members of the School community. The School is committed to ensuring that the working and learning environment is free from conduct that would be considered bullying, harassment, sexual harassment, discrimination and victimisation.

Victorian and Federal anti-discrimination and sexual harassment laws prohibit discrimination and harassment. Unlawful discrimination or harassment will not be tolerated under any circumstances. Disciplinary action will be taken against any member of the School Community who breaches the policy and may result in termination of employment.

**Application**

This policy applies to all Brighton Grammar School employees and contractors.

**Principles and Procedures**

Brighton Grammar School is an equal opportunity employer. All aspects of employment including recruitment, selection, training, promotion, and access to opportunity shall be determined on the basis of merit.

*Equal Opportunity for Women and Men in the Workplace*

Brighton Grammar School complies with the requirements of the Workplace Gender Equality Act 2012 (Act).

This means that the School will actively engage in strategies to improve equal opportunity for women and men in the workplace.

In order to comply with the Act, Brighton Grammar School will (on an annual basis, in compliance with mandatory reporting requirements):

- Complete a workplace profile;
- Analyse issues for women and men in the workplace;
- Identify priority issues;
- Identify actions;
- Evaluate the effectiveness of those actions.
It is the Policy of the School that employees will be invited to participate in the collation and monitoring of actions required to meet statutory reporting guidelines and shall be able to make suggestions to the senior management of the School regarding ways that the School can improve its performance in this area.

In addition, the School will comply with Legislation and best practice guidelines for creating a ‘family friendly’ workplace, providing flexibility where operationally practical to accommodate family and caring responsibilities.

Brighton Grammar School aims to:

- Foster an environment where all members of the School Community are treated with dignity, courtesy and respect.
- Promote appropriate standards of conduct at all times.
- Implement training and awareness – raising strategies to ensure that everyone knows their rights and responsibilities, and where necessary;
- Encourage reporting of inappropriate behaviour and provide an effective procedure for resolving complaints in a sensitive, fair and timely manner and as confidentially as possible.

This Policy sets out what constitutes discrimination, harassment, sexual harassment and bullying and what you can do if you experience these things. It also details the complaints procedure which Brighton Grammar School has implemented to ensure that any form of discrimination, harassment, sexual harassment or bullying is dealt with promptly, confidentially and impartially.

The School also has a separate policy that deals specifically with bullying; while this policy will refer to bullying as an example of inappropriate conduct, you should refer to the Anti-Bullying Policy (Direction) & Procedure - Staff and Contractors.

All employees have a responsibility to treat each other fairly and with respect. At no time should any employee use language or conduct which is likely to offend and at all times should refrain from using inappropriate or profane words or gestures and images. Individuals must also ensure that they do not discriminate against, victimise, harass, sexually harass or bully other members of staff, students or contractors.

Any reports of discrimination, victimisation, harassment, sexual harassment or bullying will be treated seriously and sympathetically by the School. Disciplinary action may be taken against anyone found to be guilty of discrimination, victimisation, harassment, and sexual harassment or bullying.

Definitions

DISCRIMINATION

The school recognises that anti-discrimination legislation at federal and state levels protects personal differences. Personal differences include:

- Age
- HIV infection
- Marital status
- Medical record
- Physical features
- Disability
- Political belief or activity
- Pregnancy
• Race, colour or nationality
• Religious belief or activity
• Sex
• Sexual orientation
• Spent and irrelevant criminal record
• Trade union activity and industrial activity
• Status as a care giver or parental status
• Breastfeeding
• Employment Activity
• Status as a health and safety representative (HSR) or a member of a health and safety committee (HSC); or raising a health and safety concern
• Personal association, whether as a relative or otherwise, with a person who is identified by reference to any of the above-listed attributes.

Direct Discrimination

It is recognised that direct discrimination can occur where people are treated differently and less favourably than others, or denied an opportunity on the basis of a ‘ground’ or characteristic. For example, it would be unlawful to refuse career development or promotion opportunities to someone who is over 55 years of age.

Indirect Discrimination

Indirect discrimination can occur when practices or procedures are adopted which appear to be neutral but which have an unequal and adverse effect on a person or group because of that person’s or group’s membership of a particular class. For example, it would be unlawful to place a height requirement on employment that may be able to be met by a much higher proportion of men than women. That is, the height requirement may have the effect of unreasonably imposing a condition or requirement with which members of a particular group (women, for example) tend to be disproportionately unable to comply.

Examples of Discriminatory Behaviour

Discrimination may involve:

• offensive ‘jokes’ or comments about another person’s racial or ethnic background, sex, sexual preference, age, disability, and the like;
• display of pictures, calendars, pin-ups, posters, computer images (eg in electronic mail messages) etc. which are offensive or derogatory;
• expressing negative stereotypes of particular groups, for example, ‘married women shouldn’t be working’;
• judging a person on characteristics such as religious or political beliefs, cultural practices, sex or age rather than work performance; or
• using stereotypes or assumptions when making decisions about a person.

Family Responsibilities

The Workplace Gender Equality Act 2012 (the Act) makes it unlawful for the School to unreasonably refuse to accommodate an employee’s parental or carer responsibilities, in relation to their work arrangements either when offering employment or during the course of employment. The School has formulated a policy regarding
flexible working which details its intentions and approach in considering the impact of an individual’s family responsibilities on their ability to fulfill the inherent requirements of their role.

In considering a request from an employee and determining whether a refusal is reasonable in the circumstances the following factors will be considered:

- the nature of the individual's work and parental or carer responsibilities;
- the nature and cost of arrangements required for an individual to fulfill their parental or carer responsibilities;
- the financial circumstances of the School;
- the size and nature of the workplace and the employer's business;
- the effect of flexible work arrangements on the workplace, including the financial impact on the School;
- the consequences for the School of having the flexible work arrangements; and
- the consequences for the individual of not being able to have the flexible work arrangements.

A request for flexible work arrangements will be assessed individually, based on the unique facts and circumstances of each request. More information on the process for making such applications is contained in the Flexible Working Policy.

Managers must not refuse any request for flexible working arrangements where the request is related to disability, family responsibilities or other protected attribute (see list on previous page) without having first discussed the matter with the individual and the Director of Human Resources or another authorised representative of the Headmaster.

**HARASSMENT**

Harassment is a form of discrimination. Harassment occurs when a person is subjected to unwelcome, uninvited behaviour that he/she finds offensive, humiliating, embarrassing or intimidating. Harassment can occur on any of the ‘grounds’ of discrimination and relies on the ‘eye of the beholder’ test. That is, the perception of the complainant, and not the intention of the respondent, is the basis for determining whether or not harassment has occurred.

**Sexual Harassment**

Sexual harassment is a form of discrimination. Sexual harassment occurs when a person is subjected to unwelcome, uninvited behaviour of a sexual nature that he/she finds offensive, humiliating, embarrassing or intimidating. As with other forms of harassment, the perception of the complainant, and not the intention of the respondent, is the basis for determining whether or not harassment has occurred. Under federal and state legislation, the subjective ‘eye of the beholder’ test is balanced with the more objective ‘reasonable person’ test. That is, would a reasonable person, given all the circumstances have anticipated that the behaviour would be found offensive, humiliating or intimidating.

**Examples of Harassment**

Harassment can take many forms and may include physical contact, verbal comments, jokes and gestures, the display of offensive material and other behaviour that creates an uncomfortable or hostile environment.

Unacceptable behaviour includes, but is not limited to:

- Display of offensive materials, pictures or objects that are sexually explicit or based on disability or race;
• Unwelcome comments or questions about a person’s sex life or appearance;
• Unnecessary familiarity such as deliberately touching or fondling;
• Messages through e-mail, VDU displays, facsimile, or other forms of electronic communication, such as Facebook, youtube or Twitter that are sexually offensive or offensive in relation to race or disability;
• Derogatory comments about any particular personal attribute, including physical appearance and disability or about a person or a group on the basis of race;
• Intimidation or verbal abuse oriented at a person with a disability or using aids or with different capabilities, or at the person’s carer;
• Practical jokes based on a person’s disability or on a person’s or group’s race;
• Isolation, segregation or humiliation of a person with a disability or a person or group based on race or any other personal attribute;
• Derogatory comments or jokes about a person or group on the basis of their personal characteristics.

Scope of Harassment

Harassment results in an unhappy and unproductive working or learning environment. Harassment can cause low morale, increased absenteeism, stress and resignation. It can affect students, staff and other members of the School Community including parents, visitors and common workplace participants at the School.

The School has a legal obligation to take all reasonable steps to prevent harassment from occurring in any school-related context. In addition to being on School premises and the conduct of classes, harassment can occur while travelling to and from the School and during extra-curricular activities, camps and other functions.

BULLYING

Workplace bullying is repeated, unreasonable behaviour directed towards an employee, group of employees or contractor that creates a risk to their health and safety.

• Unreasonable behaviour is behavior that victimises, humiliates, undermines or threatens the person being bullied, or would reasonably be expected to do so.
• Behaviour includes: actions of individuals or a group, and may involve using a system of work as a means of victimising, humiliating, undermining or threatening.
• Risk to Health and Safety includes risk to the mental or physical health of the employee.

Unacceptable behaviour makes the workplace uncomfortable, unpleasant and often unsafe. The following types of behaviour, where repeated or occurring as part of a pattern of behaviour, could be considered bullying:

• verbal or written abuse;
• excluding or isolating employees;
• psychological harassment;
• intimidation;
• assigning meaningless tasks unrelated to the job;
• giving another person impossible assignments or deadlines;
• deliberately changed work rosters to inconvenience particular employees;
• deliberately withholding information vital for effective work performance.

The list is not exhaustive. Other types of behaviour may also constitute bullying. Bullying is usually not a once-off incident but could be if the once-off incident is sufficiently serious.
BRIGHTON GRAMMAR SCHOOL

Equal Opportunity, Discrimination & Harassment Policy

Bullying does not include reasonable and legitimate actions of Brighton Grammar School in managing an individual employee’s performance, managing or altering an employee’s workload, reporting structure or duties or counselling an employee. For more information specifically relating to bullying, refer to the Anti-Bullying Policy (Direction) & Procedure - Staff and Contractors.

Rights and Responsibilities

Brighton Grammar School has a legal obligation to take ‘all reasonable steps’ to prevent discrimination, harassment and bullying.

Where Brighton Grammar School can show, on the balance of probabilities, it has taken all reasonable precautions/steps to prevent workplace discrimination and harassment, the School may not be held vicariously liable for the discriminatory action of any employee, contractor or agent. In this situation, the employee, contractor or agent may be solely liable for the discriminatory action.

All members of the School Community have the right to a secure and safe working and learning environment without discrimination and harassment.

It is your right to

- Be treated equitably;
- Be informed of your rights and responsibilities;
- Refer specific matters to an Harassment Adviser or member of the School Community that you trust and believe can assist;
- Have an objective, confidential resolution of any valid complaint;
- Refer specific matters to the Victorian Civil and Administrative Appeals Tribunal or to the Human Rights and Equal Opportunity Commission under the relevant Victorian or Federal legislation.

You are required to

- Comply with the Brighton Grammar School Equal Opportunity, Discrimination and Harassment Policy;
- Actively discourage harassment of any kind, including sexual harassment, in all aspects of school life; and maintain appropriate levels of confidentiality, at all times.

Options for Dealing with Discrimination or Harassment

As Brighton Grammar School is committed to ensuring that all staff, students and members of the School Community are treated with dignity, courtesy and respect in a learning and working environment that is free from discrimination and harassment, including unlawful discrimination and harassment, we request that any person with a concern or complaint provides the school with an opportunity to resolve the matter. Therefore, we encourage you to take one of the following approaches.

In the event that you have an issue related to discrimination or harassment, the matter can be dealt with informally or formally, in accordance with your preference. If you prefer an informal approach but then find the desired result is not achieved, then a formal approach can be adopted.

The school will deal with complaints as confidentially as is reasonably possible. The school must properly investigate any allegation of discrimination or harassment as it has a legal obligation to ensure that all reasonable precautions are taken to prevent harassment and discrimination occurring in the workplace.
Informal Complaint Procedure:

An individual may wish to deal with harassment personally

In this situation, the person may wish to speak directly to the person(s) causing the offence and inform the person(s) that it is unwelcome and that it should cease. The person should keep a record of examples of unacceptable behaviour and advise the person(s) causing offence that further action may be taken if the unwelcome behaviour does not cease.

Where a person prefers to deal with the harassment personally, there is no obligation to report the harassment. However, the person may choose to discuss the matter with the Headmaster, Director of Business and Support Services, Head of Year or Harassment Adviser, who can provide support and advice on possible strategies to achieve resolution, or can then assist if no resolution is achieved.

A staff member is asked to address unacceptable behaviour

In this situation, the staff member (preferably a senior staff member such as the Director of Business and Support Services, Head of Department, etc) may advise the complainant to speak to a Harassment Adviser or the Headmaster, if appropriate, and support the complainant to take appropriate steps to resolve the matter.

The complainant asks an Harassment Adviser to approach the alleged harasser on his/her behalf

In this situation, the Harassment Adviser would approach the alleged harasser and attempt to resolve the matter by informal conciliation. Informal conciliation is a confidential, non-judgemental process where a neutral third person (the Harassment Adviser) facilitates a mutually agreed outcome.

Some people are genuinely unaware that their behaviour has caused offence, humiliation or intimidation. A conciliated outcome may provide for an apology to be given and received and a safe, respectful working/learning environment restored.

Formal Complaint Procedure:

An individual wishes his/her complaint to be formally investigated by the school

In this situation, the Headmaster or a formally delegated senior staff member, is appointed to take the individual’s written Statement of Complaint and formally investigate the matter.

Formal investigation is a process where a written Statement of Complaint is prepared and provided to the respondent for a formal response. An independent and impartial person investigates the complaint to establish whether there is evidence or facts that may either substantiate or refute the allegations. Witnesses, if any, may be involved.

Report findings then form the basis of appropriate action by Brighton Grammar School to respond to both the individual and organisational matters addressed in the findings.

An individual lodges a complaint with the Victorian Equal Opportunity Commission

It is possible to lodge a complaint with the Victorian Equal Opportunity Commission. A complaint lodged under Victorian legislation falls within the jurisdiction of the Victorian Civil and Administrative Tribunal. Alternatively, a
complaint may also be lodged under the Federal legislation, and this is dealt with by the Australian Human Rights Commission or the Fair Work Commission. A complaint may be lodged at any time.

We hope that any member of the School Community with a complaint will provide the School with an opportunity to resolve any matter of discrimination or harassment before lodging a complaint with the Commission. If a complainant is not satisfied with the School’s action, then the right to lodge a complaint with the Commission remains.

Harassment Advisers

Brighton Grammar School has appointed the following people as Harassment Advisers. They can provide support and advice to all staff and students in dealing with complaints of alleged harassment.

Harassment Advisers may provide assistance to take early and corrective action to prevent harassment in the School. Harassment Advisers may provide support and assistance to complainants in resolving informal complaints under Brighton Grammar School policies and procedures. Harassment Advisers may also support and assist complainants to refer a complaint for formal investigation.

Harassment Advisers are:

<table>
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<tr>
<th>Heads of School</th>
<th>Heads of House</th>
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<tbody>
<tr>
<td>Careers Counsellor</td>
<td>Student Counsellor</td>
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Victimisation

Brighton Grammar School recognises that reasonable steps should be taken to ensure that complainants and those involved in the complainant process do not suffer further disadvantage, retaliation or threats. The School will not tolerate victimisation.

An individual is victimised if he or she is threatened with, or subjected to, any form of detriment because of a complaint of discrimination or harassment. Anti-discrimination law provides protection against victimisation.

Vexatious Complaints

Inaccurate, misleading, malicious or false accusations have negative consequences for the person(s) concerned, interpersonal relationships and the morale of the School Community.

Where it is found that a complaint has been made in bad faith to cause distress to one or more persons, or as a practical joke, disciplinary measures will be taken. Brighton Grammar School considers such behaviour intolerable as well as an unacceptable use of School policy.

Confidentiality

Confidentiality protects everyone and minimises the risk of defamation. Brighton Grammar School complaint management protocols require confidential management of all complaints. As the School has undertaken to investigate any complaints received, and as investigations may involve witnesses, any complaint will be dealt with as confidentially as possible.
Outcomes & Remedies

If a complaint is substantiated, then all aspects of the case must be taken into account when making recommendations for appropriate outcomes or remedies, including:

- The severity and frequency of the harassment;
- The weight of evidence;
- The impact of the complainant;
- The intention of the harasser(s);
- Prior behaviour of, or documented warnings to, the harasser(s).

Where harassment is found to have occurred, a successful outcome to a complaint can be that this behaviour stops and more respectful behaviour put in place, Where it is found that breaches of School policy or the law have occurred, remedies may range from an apology through to disciplinary action up to and including termination of employment, depending upon the circumstances of the case.

It is important to ensure that members of the School Community are able to continue to participate fully in the School environment with minimum interruption to the working/learning environment.

Outcomes or remedies may also include measures to ensure both the complainant and the respondent individual and personal counselling to ensure their safety and wellbeing in the School.

Records Management

All documentation in relation to complaints or harassment, whether dealt with informally or formally, must be taken in a strictly factual and professional manner, kept to a minimum and stored in accordance with the following protocol:

- Central, secure and confidential file by the Headmaster of the School;
- Accessed, if required, on a strictly ‘needs’ basis (for example, in relation to further complaints or evidence in any subsequent legal proceedings); and
- Destroyed after a period of at least seven years at the discretion of the Headmaster.

Legislation underpinning the concepts discussed in this policy

Federal:
- Disability Discrimination Act 1992
- Racial Discrimination Act 1975
- Sex Discrimination Act 1984
- Fair Work Act 2009
- Australian Human Rights Commission Act 1986
- Age Discrimination Act 2004
- Workplace Gender Equality Act 2012

Victorian:
- Racial and Religious Tolerance Act 2001
- Occupational Health and Safety Act 2004
- Victorian WorkCover Authority Prevention of Bullying and Violence at Work*
  * this is a guidance note only and is not legislation