



Policy Statement

Footscray City Films at Footscray City College is committed to providing a healthy and safe environment for work and study that is free from bullying and violence. Footscray City Films recognises that everyone has the right to dignity and respect and to a safe and healthy workplace.

Bullying is unreasonable behaviour directed towards another person that creates a risk to health and safety. Bullying is not a one-off situation; it is behaviour that is repeated. Bullying includes verbal abuse, abusive communications, humiliating someone, threats and violence.

Footscray City Films does not condone or tolerate workplace bullying; such behaviour is deemed to be unacceptable and may be subject to disciplinary action in accordance with Film School Policies and Procedures. Allegations of bullying will be dealt with in a prompt and confidential manner.

We encourage all incidents of bullying to be reported to Head of the Film School and Staff for action. All staff, as far as is practicable, have responsibility to ensure bullying does not take place and to take appropriate action to ensure bullying behaviour ceases and is investigated.

Purpose:

Footscray City Films is committed to providing a healthy and safe environment for all its employees, students and the public. The management of bullying and violence in the workplace encompasses prevention, response and review of policy.

Scope:

The policy is ongoing and applies across Footscray City Films. Every employee, student or visitor has a responsibility under the policy.

Definitions

Workplace Bullying

The policy is ongoing and applies across Footscray City Films. Every employee, student or visitor has a responsibility under the policy.

Repeated, unreasonable behaviour directed toward an employee, group of employees, a student or group of students that creates a risk to health and safety. Bullying can be both obvious and subtle. The following types of behaviour, where repeated or occurring as part of a pattern of behaviour would be considered bullying:

1. verbal abuse, including swearing or shouting
2. abusive or intimidating emails, letters or other forms of electronic or written communication assigning meaningless tasks unrelated to the job or lecture
3. psychological harassment
4. excluding or isolating employees or students
5. deliberately changing work rosters to inconvenience particular employees
6. deliberately withholding information that is vital for effective work or learning performance use of a system of work to bully an employee or student

Unreasonable behaviour

Behaviour that a reasonable person, having regard to all the circumstances, would expect to victimize, humiliate, undermine, threaten, degrade, offend or intimidate.

Behaviour

Includes actions of individuals or a group using a system of work or inappropriate assertion of power.

Repeated

Refers to the nature of the behaviour, not the specific form of the behaviour.

Occupational Violence

Any incident where an employee or student is threatened or physically attacked by direct or indirect application of force that creates a risk to health and safety with or without consideration of the attackers intent, including:

1. striking, scratching, biting, spitting or any other type of direct physical contact throwing objects
2. attacking with any type of weapon
3. pushing, shoving, tripping or grabbing
4. any form of indecent physical contact or sexual harassment

Threat

A statement or behaviour that causes a person to believe they are in danger of being physically attacked.

Intrusive Violence

Violence that is reasonably foreseeable, perpetrated by people from outside the organisation, who are not clients or customers.

Risk to health and safety

Includes risk to the mental or physical health of the employee or student.

Procedure

Context: Footscray City Films takes seriously its responsibilities to handle complaints of bullying / harassment promptly and impartially. It has delegated appropriately the handling of these complaints to managers and supervisors. Footscray City Films undertakes to train individuals involved in the resolution of complaints and to have available staff with relevant expertise to provide advice.

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1 STAFF RESPONSIBLE FOR HANDLING BULLYING / HARASSMENT COMPLAINTS

1.1 Responsibilities of staff with supervisory responsibilities

All employees who have responsibility for supervising staff or students are required to maintain a work and study environment free from bullying and harassment. They are required to adhere to Footscray City Films policies and procedures, which support this goal. Policies and procedures will be widely distributed and an ongoing education campaign conducted for staff and students.

Managers responsible for the employment of contractors should ensure that all contractors coming on site are familiar with Footscray City Film's Policies and Procedures.

Managers of organisational units are responsible for handling complaints they receive which are of an informal nature (refer Clauses 2.2 & 2.3). The Head of the Film School in accordance with Clause 3 handles formal complaints.

1.2 Discrimination/harassment advisors

Footscray City Films will have advisors who shall be existing employees of the College. These individuals will be trained in requirements of the WorkSafe Victoria Prevention of Bullying and Violence at Work Guidance Note. Training will include the identification of allegations, which fit under the WorkSafe Victoria Guidance Note, legislation and appropriate ways of dealing with these matters.

Their role is to act as advisors to complainants and to provide them with support and advice on procedures where necessary. They are required to not act as advocates and should remain neutral at all times.

1.3 Role of Head of the Film School

The Head of the Film School is responsible for initiating these procedures in regard to any formal complaints lodged. They are responsible for;

Publicising and reviewing this procedure Ensuring that advisors are appointed

1.4 Confidentiality

All persons who are party to complaints are required to maintain confidentiality. This includes managers, advisors, the person making the complaint (the complainant) and the person against whom the complaint is made (the respondent). Breaches of confidentiality may lead to actions for defamation on the part of those involved.

Witness statements taken as part of an investigation process are to be clearly marked as confidential documents. Footscray City Films will do everything in its power to ensure that they are treated as such within the requirements of the FOI Act.

2 Informal resolution process

Footscray City Films has established an informal process to enable complaints to be resolved as close to their source as possible. Complainants are not compelled to use this process if they feel that it is not appropriate and have the option of seeking to proceed immediately to a formal process.

2.1 Principles

Informal resolution measures are the preferred way of resolving complaints other than those of physical attack and serious harassment for the following reasons:

Ensuring a bullying and harassment free work and study environment should be a normal activity.

Cases can be resolved without a person being labelled as a bully / harasser (this is appropriate where the behaviour is unintentional).

Matters can be resolved without involving parties in formal, complex and time-consuming procedures.

Management can institute preventative measures throughout a work or teaching area at anytime.

2.2 Informal action by a manager

In instances where a complainant does not wish to proceed with a complaint or where bullying / harassing behaviour has been observed by a manager, he/she may need to take action despite the request of the complainant or in the absence of a formal complaint seek advice from the Head of the Film School. Informal complaints are not normally reported.

In such circumstances it is critical that no details that may identify a complainant or respondent are disclosed. This would be a breach of confidentiality, which could have serious implications. Particular care needs to be taken in relatively small organisational units.

If a manager believes that a staff member or student is displaying behaviour that could be viewed as bullying / harassment, he / she may informally discuss the matter with the individual concerned. If he / she is unsure of how to do this they should contact the Head of the Film School for advice.

2.3 Monitoring outcomes

Where the above processes are used the effectiveness of such actions need to be monitored. If the identified behaviour continues or the respondent denies it, the parties should be advised to move to a formal process.

Note: It is important for all staff to be aware that he / she must not willfully put at risk the health and safety of others. It is a duty to provide and maintain so far as is practicable a workplace that is safe and without risks to health and safety. Legal liability and damages may be awarded not only against Footscray City Films, but also against an individual manager who has not acted reasonably to prevent or resolve incidents of bullying / harassment. Liability and damages may also be imposed on an individual who is found legally culpable for bullying / harassment. Receipt of an informal complaint of bullying / harassment is not proof of an individual's culpability and any such assumption should not be made during discussions with alleged respondents.

2.4 Informal actions by the complainant

Internal action by the complainant may include:

1. Asking or telling a person to stop, accompanied by an advisor or other support person if they feel a need for support.
2. Writing a personal and confidential letter to the person concerned asking that the behaviour stop
3. Making an informal complaint to the person's manager or another senior staff member in the management unit.

3 Formal resolution process

3.1 Introduction

The process selected to resolve a complaint lies primarily with the complainant but also depends on the seriousness of the allegations and the Head of the Film School's responsibility to Footscray City Films at Footscray City College. Both conciliation and investigation procedures are available for the resolution of formal complaints.

Bullying complaints may be handled solely through internal procedures. Further advice or assistance may be obtained in consultation with WorkSafe Victoria. A number of Footscray City Films employees have responsibility for the effective handling of complaints.

Footscray City Films has established a staged approach to handling formal complaints as follows:

Step 1 -Conciliation (refer Clause 3.3)

Step 2 -Investigation (refer Clause 3.4), which will be used in cases where formal complaints are lodged and no satisfactory resolution can be reached through the conciliation processes.

1. Contact the Head of the Film School for advice on proceeding with the complaint.
2. Lodge a written complaint with the Head of the Film School.
3. Contact WorkSafe Victoria
4. Contact the Equal Opportunity Commission for information and / or to lodge a complaint.

In cases where the complainant or respondent decides against participation in the conciliation process the matter will proceed directly to investigation. Where the complaint is of a serious nature such as workplace violence or sexual assault Footscray City Films will move straight to the investigation stage whether the complainant goes to the police or not.

Time frames for the handling of formal complaints have been put in place to prevent protracted processes with no satisfactory outcomes for either party. These time frames apply only to internal processes. Where complaints are taken to WorkSafe Victoria or the Equal Opportunity Commission the timelines under the relevant legislation will apply.

3.2 Options for Complainants

The complainant can seek resolution of a complaint of bullying / harassment by taking one or more of the following actions

1. Contact the Head of the Film School for advice on proceeding with the complaint.
2. Lodge a written complaint with the Head of the Film School.
3. Contact WorkSafe Victoria
4. Contact the Equal Opportunity Commission for information and / or to lodge a complaint.

3.3 Conciliation

The purpose of conciliation is to reach a resolution agreement satisfactory to both parties. The conciliation process is not a fact-finding exercise and there is no requirement to establish the accuracy of claims made by either party.

The conciliation process is confidential and without prejudice. No statements made by the complainant or respondent in the course of conciliation may be used as evidence in proceedings relating to the matter of the complaint.

3.3.1 Steps to be taken in the conciliation of a formal complaint

1. The complainant lodges complaint, in writing, with the Head of the Film School.
2. The recipient of the complaint will prepare a "Statement of Complaint" to be forwarded to the respondent. The respondent will be advised that the statement is confidential and that they should not contact the complainant directly with regard to it.
3. Within 5 working days of contacting the respondent the recipient of the complaint consults with the complainant and the respondent to identify whether they agree to conciliate the complaint. Where conciliation is agreed the recipient of the complaint will identify a conciliator acceptable to both parties.
4. The Head of the Film School will assist the nominated conciliator to plan the steps to be taken in attempting to resolve the complaint.
5. The complainant and respondent will be required to sign a "Confidentiality Agreement" agreeing that any statements made in the course of the conciliation process shall be confidential and without prejudice.
6. Within 5 working days the conciliator will discuss possible resolutions with both the complainant and the respondent and seek to achieve a resolution satisfactory to both parties.
7. Where a resolution is achieved the complainant and respondent will sign the resolution agreement as complete and final settlement of the complaint.

Resolution agreements may involve:

1. a mediation session where a misunderstanding may have occurred;
2. a compulsory counselling session to be attended by the respondent; or
3. an acknowledgment by the respondent that their behaviour caused offence even if it was unintentional and an undertaking to modify their behaviour.
4. Records are destroyed in accordance with Footscray City Films Records Management Services disposal schedules.

The respondent should be advised that an inappropriate response or reprisal affecting the complainant is unacceptable and is a potential cause for a separate disciplinary action or complaint to WorkSafe Victoria or the Equal Opportunity Commission. The respondent should also be informed that statements made as part of a legitimate investigation of a bullying / harassment case

which remains confidential to the parties legitimately involved are 'privileged' under law and are therefore not defamatory.

3.3.2 Monitoring outcomes of the resolution agreement

Where a resolution agreement is achieved a monitoring process must be put in place to ensure compliance with the terms of the agreement. An appropriate person will be nominated by the Head of the Film School to monitor the resolution agreement.

3.3.3 Failure to achieve a resolution agreement

Where the resolution agreement cannot be conciliated between the complainant and the respondent, the conciliator will sign a statement declaring an agreement cannot be conciliated between the parties and the matter will proceed to the investigation stage.

3.4 Investigation

3.4.1 Purpose of investigation

An investigation is conducted to determine findings of fact. These facts are used to recommend actions to be taken by the Film School to resolve the complaint. The legal test for the findings in an investigation carried out under this policy is "balance of probability".

3.4.2 Appointment of investigators

The Head of the Film School will assign investigators to a particular complaint. Investigators must be impartial and objective. Every effort will be made to expedite the process.

3.4.3 Timelines for formal complaints undergoing Investigation:

The following timetable is indicative only and is subject to the availability of the parties to the investigation.

1. Within 5 working days of notification of the need for a formal investigation a person/persons will be appointed to carry out the investigation.
2. Within 5 working days of appointment the investigators will interview the complainant.
3. Within 5 working days of the interview the investigators will prepare a written account of the complaint and present it to the respondent.
4. The respondent will be given twenty-four hours to read the complaint prior to being interviewed by the investigators, in order to provide a response.
5. During the next 15 working days the investigating team will interview any witnesses and the complainant and respondent as necessary.
6. Following the interviews a report and recommendations to be produced for the Head of the Film School or his/her delegate within 5 working days.
7. On receipt of the report a decision will be made on action to be taken and the complainant and respondent will be notified within 5 working days.

3.4.4 Outcomes of investigation

A decision will be made on the basis of the report to either dismiss the complaint if it is found to be vexatious or without substance or take appropriate disciplinary action against the respondent if the complaint is upheld.

Where disciplinary action is appropriate the relevant Film School discipline procedures for staff will be invoked. Where the respondent is a student and disciplinary action is appropriate, Student discipline procedures will be invoked. If the complainant is not satisfied with the outcome the complaint may be referred to WorkSafe Victoria or the Equal Opportunity Commission.

Respondents who are not satisfied with the outcome should seek advice from an independent advisor / counsel.

In cases where the complaint is not substantiated and is identified as being vexatious, misconceived or without substance further action may need to be taken by Footscray City Films at Footscray City College management.

Managerial Responsibility

Head of the Film School

Other Responsibilities:

All staff, supervisors, students and visitors

Relevant Legislation

Workplace Relations Act 1996 (Clth)
Equal Opportunity for Women in the Workplace Act 1999 (Clth)
Disability Discrimination Act 1992 (Clth)

Sex Discrimination Act 1984 (Clth)
Racial Discrimination Act 1975 (Clth)
Human Rights and Equal Opportunity Act 1986 (Clth)
Occupational Health and Safety Act 1985 (Vic)
Equal Opportunity Act 1995 (Vic)
Racial and Religious Tolerance Act 2001 (Vic)
Information Privacy Act 2000 (Vic)
Whistleblowers Protection Act 2001 (Vic)
Occupational Health and Safety (Issue Resolution) Regulations 1999 (Vic)

OTHER GUIDANCE DOCUMENTS

WorkSafe Victoria Prevention of Bullying and Violence at Work Guidance Note