



# Access to Care – Anti-Discrimination, Equal Employment Opportunity Affirmative Action and Diversity Policy

## 1 Statement of Purpose

The following policy and procedures have been developed and will be implemented to meet the requirements of:

- National Disability Insurance Scheme Act 2013
- National Disability Insurance Scheme (Code of Conduct) Rules 2018
- National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018
- National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018
- National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018
- National Disability Insurance Scheme (Practice Standards-Worker Screening) Rules 2018
- National Disability Insurance Scheme (Procedural Fairness) Guidelines 2018
- National Disability Insurance Scheme (Quality Indicators) Guidelines 2018
- Australian Human Rights Commission Act 1986
- Disability Discrimination Act 1992;
- The New South Wales Anti-Discrimination Act 1977;
- Other legislative or related provisions; NSW Privacy Act 1998.

In particular, the policy seeks to meet the following requirements:

- Access to Care treats all people fairly
- Access to Care's commitment to providing a work environment that is fair and inclusive, and free of discrimination.
- Access to Care aims to attract and retain people with diverse skills, experience and backgrounds to deliver high quality of services and supports and understand the needs of the participants and the community that the organisation operates within.
- All job applicants and employees are treated equally and fairly. This means embracing a workforce of diversity as a strength and being cognoscenti of all diversity including; gender, age, people with disabilities, sexual orientation and members of racial, ethnic and ethno-religious groups.

## 2 Anti-Discrimination Laws

It is unlawful to discriminate against someone (i.e. treat them unfairly compared with others or not give them a 'fair go'), either directly or indirectly, or harass them because of their:

- sex or gender;
- pregnancy;
- race, colour, nationality, ethnic or ethno-religious background;
- marital status;
- disability including past, present or future physical, intellectual or psychiatric disability, learning disorders, or any organism capable of causing disease – e.g. HIV;
- sexual orientation, actual or presumed; or,
- age.



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It is also against the law to discriminate against people, or harass them, because of the sex, race, marital status, homosexuality, disability or age of their relatives, friends, or associates. For example, it is against the law to refuse to employ someone or provide them with support because their partner is Aboriginal, or because they have children.

It is against the law to discriminate in:

- Employment practices - from recruitment through to termination
- Goods and/or services - provided to members of the community.

### **3 Anti-Discrimination Policy**

Access to Care is committed to ensuring that the principles of Anti-Discrimination, Equal Employment Opportunity, Affirmative Action and Harassment Prevention are fully implemented with respect to both its staff and its participants and their representatives.

### **4 Discrimination**

The **Anti-Discrimination Act** makes it against the law to directly or indirectly discriminate against a person.

#### **4.1 Direct Discrimination**

Is treating someone unfairly or unequally simply because they belong to a particular group or category of people.

#### **4.2 Indirect Discrimination**

Is where there is a requirement (i.e. a rule, policy, practice or procedure) that is the same for everyone, but which has an unequal or disproportionate effect or result on particular groups. Unless this type of requirement is 'reasonable having regard to the circumstances' it is likely to be indirect discrimination - even if there was never any intention to discriminate.

#### **4.3 Access to Care will ensure that discrimination as described in this policy is clearly explained and understood by staff during their induction and what can be done to stop it.**

#### **4.4 Staff will ensure that all participants in Access to Care are informed and are regularly reminded of what discrimination is and what can be done to stop it.**

### **5 Diversity and Equal Employment Opportunity**

Equal Employment Opportunity (EEO) means having and implementing employment policies, practices and procedures which do not discriminate against any employee or applicant for a job.

It means a commitment to providing a work environment that is fair and inclusive and aims to attract and retain people with diverse skills, experience and backgrounds to deliver a high quality of services and understand the needs of the participants and the community that the organisation operates within.



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EEO means treating all job applicants and employees equally and fairly. This includes being aware of diversity including; gender, age, people with disabilities, sexual orientation and members of racial, ethnic and ethno-religious groups.

Being an EEO employer means embracing a workforce of diversity as a strength; providing equitable access to recruitment practices, employment and professional development; ensuring the workplace is free from all forms of unlawful discrimination and the workplace has a culture that fosters inclusive practices and behaviours for the benefit of all staff, participants and the community.

Embracing diversity and Equal Employment opportunity, an employer needs to follow the provisions of the Anti-Discrimination Act and ensure that everyone in its workplace is aware of these laws and follows them.

The provisions of the NSW Antidiscrimination Act apply in the following circumstances:

- when hiring employees;
- at any time during their employment - including the provision of benefits, training, promotion, and so on; and,
- when ending employment.

### **6 Hiring Staff**

**6.1** In general, all jobs must be open to all people, on the basis of merit, and irrespective of their sex, race, marital status, disability, homosexuality or age.

There are only a few exemptions to this rule. For example:

- to employ a man to clean male toilets if the toilets need to be cleaned when they are likely to be in use;
- to employ a member of one sex rather than the other if the job involves the provision of personal care services to people of that sex for their welfare, education or other personal services, and where a substantial number of those receiving the services the participants might reasonably object to the job being done by a person of the opposite sex.

**6.2** Only the qualifications, skills, experience and knowledge actually necessary to do the particular job should be included in a job advertisement, and only questions based on such an advertisement should be asked at any interviews convened to select the applicant/s who has/have the highest merit for appointment.

**6.3** All groups of people should be treated fairly and without discrimination in relation to the conditions of employment they're offered at the beginning of their employment. For example:

- It is not OK for all women employees to be employed as casuals and only give permanent status to men, or vice versa.
- Wage rates for people doing the same or a comparable job, should generally be the same.



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### **7 During Employment**

- 7.1** All staff must be treated equally and fairly in relation to such things as recreation leave, sick leave, training opportunities, shift rosters and promotional opportunities. Their sex, race/ethnic group, marital status, pregnancy, disability or homosexuality must not make any difference to the way permanent, temporary or casual staff are treated during their employment.
- 7.2** It is management's responsibility to ensure that, to the best of their ability, no employee is harassed sexually, racially, in a sexist manner, about their homosexuality, disability, or marital status at any time during their employment.
- 7.3** It is against the law to discriminate against a pregnant employee because she is pregnant - whether she is permanent, full-time, part-time or casual.

### **8 Ending Employment**

- 8.1** It is against the law to discriminate against employees on the grounds of their sex, disability, homosexuality or pregnancy when terminating their employment.
- 8.2** Exit interviews should be offered to all resigning staff, one function of the exit interview should be to ensure that discrimination/harassment is not a reason for the employee's resignation.
- 8.3** If it is necessary for positions to be made redundant and for staff to be retrenched, this must be done in a way that is non-discriminatory.
- 8.4** It is against the law for employers to compulsorily retire the majority of their employees just because they have reached a certain age e.g. 60 years for woman and 65 years for men. Compulsory retirement means:
  - actually, retiring someone;
  - threatening to retire someone; or,
  - doing anything that is intended to make someone retire e.g. giving an older worker demeaning, fewer or lesser status tasks to try to make them leave.

### **9 Affirmative Action**

Affirmative Action involves the development and implementation of strategies that provide special help for groups who have been disadvantaged in the past in gaining employment and/or in obtaining fair and equal access to benefits and opportunities within the workplace.

Affirmative action strategies help give previously disadvantaged groups the skills, abilities, knowledge and confidence to allow them to compete on equal terms with everyone else. Such strategies cannot only help to ensure that equal employment opportunity becomes a reality for everyone, but also that the employer gets the best out of all groups within their workplace.



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In general, an employer needs to have its program of affirmative action strategies certified by the NSW Antidiscrimination Board before implementation; however notwithstanding, Access to Care will undertake the following:

- 9.1** Access to Care must provide any special facilities or services people with disabilities need to do a job, unless it would cause the organisation 'unjustifiable hardship'.
- 9.2** Access to Care will ensure there is a structured approach to ensuring that women are able to compete equally for employment, training and promotional opportunities, and that any disadvantages are addressed.
- 9.3** Access to Care will keep statistics on the occupations and employment status of women in the organisation, and use these to implement strategies to redress any imbalances in the profile of the workforce.

### **10 Harassment**

In general, harassment is any form of behaviour that is not wanted and not asked for and that:

- humiliates someone, or
- offends them, or
- intimidates or scares them

If the person on the receiving end of the harassment makes it clear that they don't like what's happening and/or wants it to stop - either by telling the harasser or someone else in the organisation and the behaviour continues, then it is probably harassment.

Usually harassment is on-going or a series of events. However, legally harassment does not need to happen more than once for it to be against the law. Just one act can be enough for it to be harassment.

Harassment is often about one person or a group of people using power inappropriately over another person or group of people. This power imbalance can sometimes make it difficult for a person being harassed to say "no", or even to give an indication that the behaviour is not wanted.

For example:

- A participant assisted by the organisation may not even realise that they are being harassed, or if they do, be unable to say or indicate "no" due to the nature of their disability, or be too scared or frightened to say anything because he/she feels so dependent on the assistance that they receive from the organisation.
- A direct care worker of the organisation who is being harassed by a fellow staff member or line manager, may be scared to say "no" for fear of work-related reprisals such as sacking, demotion, being rostered to shifts that they can't reasonably be expected to work, or victimised in some other way.

Even if the person being harassed feels that they can't or they don't say "no", it is still harassment.



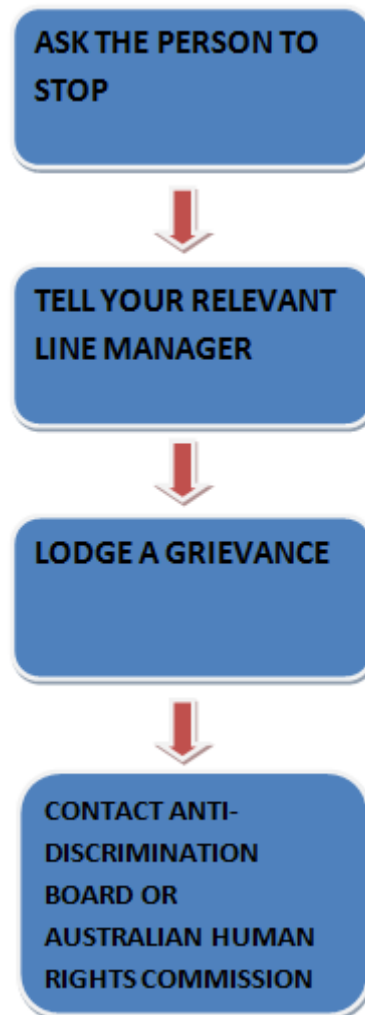
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- 10.1** Access to Care will ensure that harassment as described in this policy is clearly explained and understood by staff during their induction and what can be done to stop it.
- 10.2** Staff will ensure that participants in Access to Care outlet are informed and are regularly reminded of what harassment is and what can be done to stop it.



## Access to Care – Anti-Discrimination, Equal Employment Opportunity Affirmative Action and Diversity Policy

### 11 What you can do if you feel you have been discriminated against or harassed (employees)





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### 12 What you can do if you feel you have been discriminated against or harassed (participant)



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