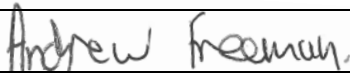


# STANDARD OPERATIONAL POLICY AND PROCEDURES



<b>TOPIC</b>	Serious Misconduct/Harassment/Sexual Harassment/Bullying – SOPP 35.18		
<b>RESPONSIBILITY</b>	Human Resources		
<b>AUTHORISATION</b>	Chief Executive		
<b>SIGNED</b>		<b>DATE</b>	20/02/2019
<b>VERSION</b>	1.8	<b>LAST REVIEWED</b>	February 2019
<b>EFFECTIVE</b>	December 2005	<b>NEXT REVIEW</b>	November 2020

## 1. PURPOSE

East Grampians Health Service (EGHS) is committed to providing employees with a healthy and safe work environment. All employees, patients and their visitors are entitled to be treated with respect and dignity.

EGHS will maintain a workplace that is free from all forms of serious misconduct inclusive of harassment, sexual harassment and bullying. This policy relates to all staff (including Visiting Medical Officers, contractors, volunteers and students) of EGHS.

EGHS is committed to the aims and objectives of the *Whistleblowers Protection Act (2001)* and will take all reasonable steps to support and protect staff and members of the public who make disclosures that reveal serious misconduct, bullying, harassment and sexual harassment.

## 2. POLICY OUTCOMES

All employees, contractors, patients and their visitors will be treated with respect and dignity by EGHS staff, contractors, volunteers and students.

EGHS will create awareness, educating its employees about serious misconduct, harassment, sexual harassment, bullying and implementing a procedure which will provide persons who experience any form of harassment an opportunity to have their complaint heard and redressed where the complaint is substantiated.

A comprehensive education program regarding workplace harassment, sexual harassment and bullying will be undertaken initially then annually with this policy discussed at EGHS orientation and at EGHS annual mandatory education.

EGHS staff; patients and the general public will have confidence that any report of serious misconduct, bullying, harassment, or sexual harassment will be responded to in a timely manner and substantiated reports will be managed according to the [Disciplinary Procedure – SOPP 35.33](#) and appropriate legislation.

Preventing and managing the risks of workplace bullying is part of meeting everyone's requirements under occupational health and safety laws. Under health and safety laws, employees and other people in the workplace must take reasonable care for themselves and that they do not adversely affect the health and safety of others.



### 3. DEFINITIONS

Serious misconduct includes corruption, a substantial mismanagement of public resources, or conduct involving substantial risk to public health and safety or the environment. Actions may include, but are not limited to:

- Breaching the Code of Conduct for Victorian Public Sector Employees (No.1) 2007.
- Refusal to obey lawful and reasonable instruction.
- Fraud, such as falsification of records, including timesheets.
- Negligence or carelessness which affects patient or employee safety or quality of care.
- Bringing alcoholic substances or drugs onto the premises, or consuming these types of substances where the employee could then be considered a safety risk to themselves, others or equipment.
- Unauthorised possession of property. (Theft)
- Failure to abide by policies and procedures operating within the workplace.
- Behaviour that is contrary to appropriate levels of respect and civility.
- Disregard for policies and practices relating to issues such as timekeeping, absenteeism, housekeeping and wastage.
- Discrediting East Grampians Health Services reputation.
- Divulging confidential and sensitive information, including patient information.
- Breaching EGHS security and confidentiality.

Harassment (sexual) is unsolicited and unwelcome behaviour of a sexual nature which makes the person being harassed feel offended, humiliated or intimidated and may include:

- Unwelcome physical contact.
- Unwelcome comments about a person's private life.
- Sexual jokes.
- Propositions of sexual activity.
- Sexually suggestive posters and displays.

Harassment (verbal behaviour)

- Disparaging remarks about a person because of race, disability, age, sex, sexuality, or other protected attribute.
- Imitating an accent or disability.
- Jokes, derogatory comments, offensive messages by telephone, with reference to age, race, disability, sexual orientation or sex.
- Insults, taunts, teasing or name-calling.
- Referring to a person who is transgender by her/his previous name or gender or calling her/him "it".

### Harassment (non-verbal)

- Offensive or degrading/insulting material such as sexually suggestive, racist, sexist and other stereotypes displayed on walls, screen savers, faxes, e-mail, letters, publications and in other work areas.
- Suggestive behaviours such as staring or leering.
- Unwelcome practical jokes.
- Mimicking another person's disability.
- Offensive hand or body gestures.
- Unnecessarily leaning over someone or standing too close to them.
- Wolf whistling.
- Continually ignoring or dismissing others contributions in a work meeting or discussion.
- Stalking another employee, customer or client.
- Downloading pornography from the internet.

### Harassment (physical behaviour)

- Unnecessary physical contact (pinching, patting, brushing up against a person, touching, kissing, hugging, massaging).
- Pushing, shoving or jostling.
- Initiation rites that involve anything that could be regarded as sexual, sexist, racist, or otherwise stereotyping.
- Putting your hand or an object into someone's pocket.
- Criminal offences of physical, and indecent or sexual assault.

Bullying is repeated unreasonable behaviour directed at an employee or group of employees that creates a risk to health and safety.

It may include:

- Verbal abuse.
- Excluding or isolating employees.
- Psychological harassment.
- Assigning meaningless tasks unrelated to the job.
- Giving employees impossible assignments.
- Deliberately changing rosters to inconvenience particular employees.
- Deliberately withholding information that is vital for effective work performance
- Physical and verbal assaulting of a patient, visitor or another EGHS employee.
- Bullying, discrimination and harassment including being a party to actions that could be seen as bullying. (This includes witnessing and allowing such action to continue).

#### **4. REPORTING AN INCIDENT**

Behaviour that falls within the definitions above should be reported. All employees have a legal responsibility to care for their own health and safety and that of co-workers. EGHS will take all responsible steps to protect the identity of a whistle-blower in accordance with The Whistleblower Protection Act (2001).

An Employee Complaints Form should be completed regarding the alleged incident and the matter reported to the Departmental Manager/Supervisor, or Human Resource Manager.

Patients, visitors, contractors and volunteers may use the Compliments and Concerns Form to report an incident. These will be managed as per the Management of Compliments and Concerns – SOPP 16.01. Should a staff member use the Compliments and Concerns Form to report an incident, this will be managed as if it were an Employee Complaints Form.

Corrupt conduct including substantial mismanagement of resources, or a risk to the public health and safety or the environment should be reported immediately to the Chief Executive or Executive Director and will need to be confirmed in writing.

When a grievance or concern is lodged, the person making the statement will be notified immediately of the support available. These include counselling or support from contact officers. In the case of a whistle-blower, an EGHS representative will be appointed immediately to look after their general welfare.

If the grievance or concern is about another EGHS staff member or contractor, the Human Resource Manager will advise the person against whom the allegation has been made in writing and inform of opportunities for support.

A disclosure about improper conduct or detrimental action by EGHS or its employees may also be made directly to the Victorian Ombudsman:

Internet: [www.ombudsman.vic.gov.au](http://www.ombudsman.vic.gov.au)

Email: [ombudvic@ombudsman.vic.gov.au](mailto:ombudvic@ombudsman.vic.gov.au)

Tel: 9313 6222

Toll free: 1800 806 314

#### **5. INVESTIGATION**

All reported incidents must be investigated. The purpose of an investigation is to conclude whether, on balance, concerns regarding misconduct or bullying or harassment are well-founded and supported by evidence. An investigation must be fair including proper regard to procedural fairness.

The Human Resource Manager will advise in writing the parties involved of the appointment of the investigator within 24 hours of their appointment and include the allegations relating to the investigation.

Standing down an employee on full pay during an investigation must be approved by the relevant Executive Director and only where the alleged misconduct is serious, or the employee's presence in the workplace may harm patient care; EGHS' reputation; or interfere with the investigation.

Investigations will be completed within 21 days. If additional time is required due to the appointment of an external investigator, or extenuating circumstances, EGHS will aim to complete the investigation as soon as is practical.

EGHS will take all reasonable steps to ensure confidentiality for all parties involved in the investigation.

Human Resources or the CEO will appoint an investigator who can impartially determine the facts, this will not be a person who will decide the action that will be taken EGHS in response to the investigation findings. Human Resources will provide resources and support to the investigator while keeping matters relating to the investigation confidential.

The investigator may be:

- An EGHS Representative (Human Resources).
- A trained Health Service's investigator.
- A person external to the organisation, skilled in investigation procedures.

The investigator will ensure reasonable steps are taken to investigate the employee's response. Investigations should be expediently managed to ensure the investigation is completed as soon as is possible. The investigator will report their findings to Human Resources.

## **6. POST INVESTIGATION**

At the completion of the investigation the grievance will either be substantiated or not.

### **6.1 Substantiated Grievance**

[Disciplinary Procedure – SOPP 35.33](#) will be enacted within two working days of the completed investigation. The Human Resource Manager will notify all parties in writing of the outcome of the investigation at this time.

### **6.2 Unsubstantiated Grievance**

All parties involved will be advised in writing by the Human Resources Manager of the outcome, within one week of the investigation closing.

A grievance may not be able to be substantiated because of a lack of witnesses or evidence. However, there still may be a problem in the workplace and the relevant Management Group will, in these circumstances, consider:

- Provision of further opportunities for the Complainant to seek support.
- Assess if there is a need for specific training in the work area.
- Closely monitor the situation for a period of time.

## **7. REFERENCES**

Latrobe Regional Hospital - Policies and Protocols

WorkSafe Draft Code of Practice for the prevention of Bullying & Violence in the Workplace.

Aged Care Quality Standards – Standard 7

National Safety and Quality Health Service Standards – Standard One

Nurses and Midwives (Victorian Public Health Sector) (Single Interest Employers) Enterprise Agreement 2016-2020

Victorian Public Health Sector (Health and Allied Services, Managers and Administrative Workers) Single Interest Enterprise Agreement 2016 – 2020

Managing Misconduct – Charles Power, Partner, Holding Redlich Lawyers, Portner Press 2017

## **8. RELATED DOCUMENTS**

[Disciplinary Procedure - SOPP 35.33](#)

[Employee Complaints and Grievance - SOPP 35.12](#)

[Management of Compliments and Concerns - SOPP 16.01](#)

[Employee Complaint Form - 35.12.00](#)

[Improving Performance Guide](#)

Victorian Equal Opportunity & Human Rights Commission – [Quick Guide – Reporting and Responding to Sexual Harassment in the Workplace](#)