



AUSTRALIAN DENTAL ASSOCIATION VICTORIAN BRANCH INC.

ADMINISTRATIVE BRANCH POLICY STATEMENT 4.02

EQUAL OPPORTUNITY

1. INTRODUCTION

The Australian Dental Association Victorian Branch Inc. (ADAVB) is committed to providing a safe, supportive and respectful environment for staff, Members, clients and the public. ADAVB and its' employees have a legal responsibility to make sure that everyone participating in Branch activities is treated fairly and with respect. ADAVB is committed to providing an inclusive environment for all staff. ADAVB values diversity and will not tolerate discrimination against employees.

2. LEGISLATION

Bullying, harassment and unlawful discrimination can result in breaches of relevant legislation: The *Fair Work Act 2009* (Cth), *Victorian Equal Opportunity Act* (2010), the *Occupational Health and Safety Act 2004* (Vic), the *Commonwealth Sex Discrimination Act* (1984), the *Racial Discrimination Act* (1975), the *Victorian Racial and Religious Tolerance Act* (2001), the *Disability Discrimination Act* (1992), the *Age Discrimination Act 2004* (Cth), the *Australian Human Rights Commission Act 1986* (Cth), and the *Crimes Amendment (Bullying) Act 2011* (Vic), also known as 'Brodie's Law'.

Many of these laws place responsibility for such behaviour not only with the employee, but also with the employer, for example, Brodie's Law makes serious bullying a criminal offence, by extending the application of the stalking provisions in the *Crimes Act 1958* to include behaviour that involves serious bullying, and carries a maximum penalty of 10 years imprisonment.

3. DEFINITIONS¹

3.1 Discrimination

3.1.1 Discrimination is treating, or proposing to treat, someone unfavourably because of a personal characteristic protected by the law (as listed below). This includes bullying someone because of a protected characteristic.

It is unlawful to discriminate against a person on the grounds of:

- age
- carer and parental status
- disability (including physical, sensory and intellectual disability, work related injury, medical conditions, and mental, psychological and learning disabilities)
- employment activity
- gender identity, lawful sexual activity and sexual orientation
- industrial activity
- marital status
- physical features
- political belief or activity
- pregnancy and breastfeeding
- race (including colour, nationality, ethnicity and ethnic origin)
- religious belief or activity
- sex

¹ Definitions taken from the Victorian Equal Opportunity and Human Rights Commission Website: <http://www.humanrightscommission.vic.gov.au/> accessed 18-09-14

- personal association with someone who has, or is assumed to have, one of these personal characteristics.

3.1.2 The *Fair Work Act 2009* (Cth) provides that an employer must not take adverse action (including dismissing an employee) or prospective employee because of the person's personal characteristics, as protected by the law.

3.2 Harassment

3.2.1 Harassment varies in degree and the extent to which it causes affront and distress. It may result in the recipient feeling pressure, distress, guilt and confusion, and may create harmful work conditions of fear and conflict.

3.2.2 Harassment may occur between peers or between staff at different promotion levels and employment categories or between staff and visitors to the Branch. Such behaviour impairs the integrity of the staff concerned with other staff, Branch members, the public, contractors, work experience students, etc.

3.2.3 The intention of this policy is not to interfere in people's personal lives and relationships. However, the employer has a responsibility to ensure that harassment does not occur, and that professional standards of conduct are maintained in the workplace.

3.2.4 Any instance of harassment will be treated as a serious disciplinary matter. Neither will any victimisation of a person making a complaint concerning alleged discrimination be permitted.

3.3 Sexual Harassment

Sexual harassment is unwelcome sexual behaviour, which could be expected to make a person feel offended, humiliated or intimidated. Sexual harassment can be physical, verbal or written. The following behaviours, while not representing an exhaustive list, constitute sexual harassment, and should not be regarded as too trivial to warrant complaint:

- comments about a person's private life or the way they look
- sexually suggestive behaviour, such as leering or staring
- brushing up against someone, touching, fondling or hugging
- sexually suggestive comments or jokes
- displaying offensive screen savers, photos, calendars or objects
- repeated requests to go out
- requests for sex
- sexually explicit emails, text messages or posts on social networking sites.

A single incident is enough to constitute sexual harassment – it doesn't have to be repeated.

3.4 Bullying

Workplace bullying, also classified as harassment, is defined as repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety.

3.4.1 Examples of Bullying

Bullying includes:

- verbal abuse;
- threats of demotion or dismissal or physical harm;
- repeated jokes about a person and their performance or characteristics;
- repeatedly treating a person less favourably than other staff at an equivalent level, e.g. not allowing a person to leave early when all other staff are regularly given this privilege;
- putting someone down;
- unjustified criticism or complaints;
- spreading rumours or innuendo;
- publishing information or statements about a person on the internet or by email or text message;
- performing abusive or offensive acts in front of a person;
- giving offensive material to a person;
- following a person;
- interfering with someone's property or equipment;
- deliberate exclusion;
- deliberate denial of access to unclassified information or resources;
- setting tasks above or below an employee's skill level and outside their duty statement;
- setting unreasonable timelines; and
- excessive scrutiny.

3.4.2 Actions That Do Not Constitute Bullying

Any reasonable management action carried out in a fair way, such as:

- setting performance goals, standards and deadlines;
- allocating work;
- deciding not to select a worker for promotion;
- informing a worker about unsatisfactory work performance or behaviour;
- implementing organisational changes;
- performance management; or
- constructive feedback.

4. ANTI-DISCRIMINATION

4.1 By establishment of this policy, the Branch makes a commitment to take all necessary steps to ensure that no person is subject to unlawful discrimination, such as:

- treating a person less favourably than someone else in the same or similar circumstances because of one or more of the grounds listed above;
- treating a person less favourably because of characteristics which apply, or are thought to apply, to persons of a particular group defined by one of the grounds listed above; or
- imposing an unreasonable condition, which some people of a particular group are less able to meet than others.

4.2 Specifically in relation to employment policies, no discriminatory action based on the above listed grounds may be taken in:

- advertising for employees;
- determining who should be offered employment;
- offering employment on certain terms;
- negotiating an employment agreement or contract;
- refusing or deliberately omitting to offer employment;
- denying access to training or retraining programs;
- denying or limiting access to opportunities for promotion, performance premiums or to any other benefits of employment;
- dismissal or retrenchment;
- imposing unreasonable working conditions.

However, it is not unlawful for the Branch to set reasonable terms or requirements of employment to suit the reasonable and genuine requirements of the position. It is also not unlawful for the Branch to discriminate where the employment would require special services or facilities that are unreasonable.

4.3 Any instance of unlawful discrimination will be treated as a serious disciplinary matter. Neither will any victimisation of a person making a complaint concerning alleged discrimination be permitted.

5. POLICY

5.1. Branch personnel and other people who interact with the Branch must take reasonable care that they do not adversely affect the health and safety of others. Bullying, harassment and unlawful discrimination are not acceptable.

5.2. This policy applies to behaviours that occur:

- in connection with work, even if it occurs outside normal working hours
- during work activities, for example when dealing with members
- at work-related events, for example at conferences and work-related social functions

- on social media where workers interact with colleagues or clients and their actions may affect them either directly or indirectly.
- 5.3. Procedures for seeking advice and making a complaint are found in Appendix I to this Policy.
- 5.4. The principles of complaint resolution are detailed in Appendix II to this Policy.
- 5.5. Consequences of non-compliance with this Policy:
- Appropriate disciplinary action will be taken against a person who is found to have breached this policy. These measures will depend on the nature and circumstance of each breach and could include:
 - a verbal or written apology
 - one or more parties agreeing to participate in counselling or training
 - a verbal or written reprimand
 - transfer, demotion or dismissal of the person engaging in the discriminatory, bullying or harassment behaviour.

6. RESPONSIBILITY

- 6.1 In discharging Branch's legal responsibility to provide a workplace free of bullying, harassment and unlawful discrimination, the ADAVB's Chief Executive Officer must give attention to the following matters:
- advising the ADAVB Council on matters pertaining to bullying;
 - advising ADAVB Council of any formal complaints that have been lodged with an external body;
 - providing parties to a complaint with information about the options available for advice, support and complaint resolution;
 - ensuring confidentiality in all matters relating to complaints of bullying, harassment and unlawful discrimination;
 - providing ongoing support and information to the work of Workplace Contact Persons.
- 6.2 Acting in the role of Equal Opportunity Officer, the CEO is responsible for:
- ensuring that proper standards of conduct are maintained at all times in the workplace and that bullying, harassment and unlawful discrimination are actively discouraged;
 - being aware of, and ensuring that all staff and visitors are aware of relevant legislation and the Branch's policy and procedures in relation to bullying, harassment and unlawful discrimination;
 - ensuring that all employees, including casual and fixed term employees, are aware of their legal responsibilities with respect to bullying, harassment and unlawful discrimination;
 - ensuring that all staff members are made aware of the possible avenues for advice and the procedures for making complaints with respect to bullying, harassment and unlawful discrimination; and
 - including information on Equal Opportunity issues in all induction training.

6.3 **WORKPLACE CONTACT PERSONS**

6.3.1 Workplace Contact Persons are responsible for:

- playing a pro-active role in the prevention of bullying, harassment and unlawful discrimination by advising the Chief Executive Officer of workplace circumstances which could give rise to instances and complaints of bullying, harassment and unlawful discrimination and by making recommendations for change;
- are not responsible for resolving complaints, rather they are the first point of contact for any person considering making a complaint or seeking advice about bullying, harassment and unlawful discrimination

6.3.2 Branch Workplace Contact Persons include:

- The Operations Manager, and
- The Policy and Research Officer

7. **STAFF**

7.1 All staff have a responsibility to:

- ensure that their behaviour does not constitute, or foster, bullying, harassment and unlawful discrimination;
- be aware of this ADAVB Policy and relevant procedures.

8. **VISITORS**

8.1 It is a condition of entry to the premises that all visitors comply with this Policy.

8.2 Visitors who refuse to be bound by this policy may be refused entry.

8.3 Visitors who fail to comply with this policy may be asked to leave the premises.

9. **COMPLAINTS**

9.1 See the Procedures for Advice and Complaint (Appendix 1 to this policy)

9.2 In the event the complaint is considered justified, appropriate remedial action will be taken immediately or a recommendation should be made to the Executive Committee for determination, and this shall be reported to Branch Council.

9.3 Complainants will receive written advice concerning the outcome of any investigation and actions arising from such investigations.

10. RIGHT OF REVIEW

10.1 Complainants who are not satisfied with the outcomes of the processes administered by the Chief Executive Officer shall have a right of review by the Branch President. A written request for such review should be directed in confidence to the President of the day.

11. CONFIDENTIAL PROFESSIONAL COUNSELLING SERVICES AVAILABLE TO ADAVB PERSONNEL

ADAVB contracts with OPTUM, who provides Branch members and employees with a free, confidential professional counselling service.

ADAVB personnel who experience concern or distress on any matter, be it work-related or otherwise, may wish to seek professional support through this service.

This service is completely confidential and the management and Council of the Branch would never know if or when staff had made use of this service. Statistics on usage of the services are very general, and all reports use de-identified data.

To arrange an appointment call 1300 366 789
For emergencies (24/7) contact 1800 451 138

Branch Policy Statement Number	4.2
Adopted by Council	20 July 2009
Reviewed by Constitution and Policy Committee	14 July 2015
Amended by Council	3 December 2012 20 July 2015
Relevant Rules	
Relevant By-Laws	
See also	Historical policy references: <ul style="list-style-type: none">• 116/95• BPS 1.16 Harassment• BPS 1.24 Bullying

Appendix 1 - Procedures for Advice and Complaint handling

Appendix 2 - Principles of Complaint Resolution