



Equal Opportunity, Discrimination and Harassment

1 GROUP TRAINING ORGANISATION (GTO) NATIONAL STANDARDS

NextGen Jobs is a GTO, committed to meeting the following national compliance standard/s:

Standard 1 – Recruitment, Employment Induction

Standard 2 – Monitoring and Supporting Apprentices and Trainees to Completion

Standard 3 – GTO Governance and Administration

2 EQUAL OPPORTUNITY, DISCRIMINATION AND HARASSMENT POLICY

NextGen Jobs is committed to creating a work environment free from discrimination and harassment and where all people are treated professionally.

3 PURPOSE

To foster professional, open and trusting workplaces where all employees/apprentices/trainees feel confident, comfortable and safe.

To provide a shared understanding of NextGen Jobs' expectations in regards to acceptable and appropriate behaviour within workplaces.

To protect NextGen Jobs employees/apprentices/trainees, as required by law.

4 SCOPE

This policy applies to all NextGen Jobs directors, board members, officers, managers, employees, contractors, Employer Partners, job seekers and Government agencies.

This policy applies to all operations, e.g. recruitment, selection, advertising, interviewing, communicating, on-boarding and employment.

Equal opportunity is about giving and getting a 'fair go'. It does not assume everyone is the same and it does not mean treating everyone the same. In some circumstances, treating everyone the same is unfair and against the law.

Definitions

Listed below are the definitions relevant to this policy taken from legislation.

Equal Opportunity

Where individuals do not discriminate against people based on age, colour, race, sex, religion or disability.



Direct Discrimination

Direct discrimination is the outcome when someone treats, or proposes to treat, a person with a protected attribute unfavourably because of that attribute (e.g. sex, race, colour, descent, national or ethnic origin, disability, family responsibilities, sexual preference, industrial activity, personal association, etc.). Often the result of decisions based on stereotypical assumptions about what people with certain personal characteristics can and cannot do; direct discrimination can be either intentional or unintentional.

Indirect Discrimination

Indirect discrimination will occur where someone imposes, or proposes to impose, a requirement, condition or practice that has, or is likely to have, the effect of disadvantaging people with a protected attribute, and that is not reasonable (e.g. to only offer training and development opportunities to staff members above a certain classification level or to conduct such activities at times that prevent workers with family responsibilities from attending).

Harassment

Harassment is inappropriate workplace behaviour that creates a hostile work environment by undermining, offending, humiliating or intimidating another person. A person can be harassed irrespective of whether or not they are the recipient of the inappropriate behaviour, or a witness to the behaviour. Often a misuse of power harassment takes many forms (e.g. written, verbal, gestures or physical contact) and can be based on a number of grounds (e.g. racial, sexual, disability or pregnancy harassment). Harassment creates an uncomfortable, if not hostile work environment which is both unsafe and unproductive. Harassment may occur outside the workplace and still qualify as work related (e.g. training conferences or work social functions). By its very nature, harassment is unwelcome and unsolicited. It could include:

- Offensive jokes and innuendo
- Suggestions or derogatory comments about physical appearance or cultural behaviour
- Unwelcome physical contact
- Unfair allocation of menial or unpleasant duties or tasks
- Verbal Intimidation, abuse or assault
- Unsubstantiated allegations
- Inappropriate email messages and phone calls

Harassment of an individual or a group can equate to the behaviour of either an individual or a group. It may relate to a single incident a series of incidents or people being subjected to an inappropriate workplace atmosphere.

Sexual Harassment

The federal Sex Discrimination Act 1984 defines Sexual Harassment as an unwelcome sexual advance, unwelcome request for sexual favours, or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated or intimidated, where that reaction is reasonable in the circumstances.

Sexual harassment can include physical contact, gestures, actions, comments, written material, emails or pictures. Specific behaviours include, but are not limited to:

- Inappropriate emails and voice mail messages
- Sexual jokes and offensive telephone calls
- Accessing pornography at work
- Intrusive remarks, questions or insinuations about a person's sexual or private life
- Display of obscene or pornographic photographs, pictures, poster, reading matter or objects
- The playing of sexually explicit audio or video tapes
- Inappropriate jokes and comments about a person's physical appearance or body shape
- Requests for sexual favours, or propositioning others
- Lewd facial expressions and inappropriate staring
- Excessive attention and persistent requests for dates
- Physical contact such as patting, pinching or touching and other forms of uninvited physical intimacy
- Masturbation, indecent exposure or the inappropriate unfastening or removing of clothing
- Sexual assault and rape

Where sexual harassment is also a criminal offence, it is the choice of the individual victim as to whether or not the incident is reported to the police. NextGen Jobs will support any person wishing to report such a matter to the police, irrespective of whether the alleged incident took place at work or a work related function.

Mutual attraction and friendship do not equate to sexual harassment. Workplace relationships can however amount to sexual harassment of co-workers depending on the extent and nature of the public behaviour.

Vilification

Vilification is a public act that incites physical harm, hatred, ridicule, severe offence, ill feeling, humiliation, or intimidation, based on personal characteristics or circumstance (e.g. skin colour, race or homosexuality). The workplace is a public place, consequently racist speeches or posters in the staff canteen are likely to qualify as vilification.



Victimisation

For the purposes of this policy, victimisation is to subject a person or a group of people to any detriment, or threat of detriment because they have, or are likely to make a complaint of discrimination, harassment or vilification. Any detriment or threat of detriment because a person has acted as a witness to a complaint or supported a victim will also be viewed as victimisation.

There are several sections of legislation covering equal employment opportunity principles which provide a framework for NextGen Jobs' operations and activities. The following legislation varies in relation to areas of coverage and technicalities, but is complementary in principle, spirit and intent.

- Fair Work Act 2009
- Federal Age Discrimination Act 2004
- Federal Australian Human Rights Commission Act 1986
- Federal Disability Discrimination Act 1992
- Federal Racial Discrimination Act 1975
- Federal Sex Discrimination Act 1984
- Federal Workplace Gender Equality Act 2012
- Racial and Religious Tolerance Act 2001 (VIC)
- Victorian Charter of Human Rights and Responsibilities 2006 (VIC)
- Victorian Equal Opportunity Act 2010 (VIC)
- Anti-Discrimination Act 1977 (NSW)
- Discrimination Act 1991 (ACT)
- Anti-Discrimination Act 1991 (QLD)
- Equal Opportunity Act 1984 (WA)

Relevant Areas and Grounds

Industrial relations and equal employment opportunity laws contain specific provisions which prohibit discrimination, harassment, vilification and associated victimisation.

The areas relevant to NextGen Jobs are:

- Employment
- Provision of goods, services and facilities
- Education and training; and potentially
- The administration of Commonwealth/State funded programs

The grounds covered by the relevant equal employment opportunity and industrial relations laws are:

- Sex or gender
- Pregnancy, potential pregnancy and breastfeeding
- Marital status (including de facto, single or divorced status)
- Family/carer's responsibilities
- Disability (physical, intellectual, psychiatric, sensory or neurological whether past, present, imputed or future, including HIV/AIDS)
- Race or ethnic origin
- National extraction
- Skin colour
- Age and compulsory retirement
- Religious belief or activity
- Political opinion or affiliation
- Trade union or employer association activity
- Irrelevant criminal record
- Sexual preference or sexuality
- An associate, family member or carer of a person who reflects the above personal characteristics or circumstances
- Victimisation of a person who has made a complaint, or of someone who comes forward as a witness or to speak on behalf of the staff member who believes they have experienced discrimination, harassment or vilification

5 KEY RESPONSIBILITIES

Board

- Support the General Manager with harassment and discrimination cases, where required

General Manager

- Undertakes investigation of harassment and discrimination cases
- Seek expert help for complex or serious matters

Financial Controller

- Provide advice to the General Manager and to the Board on equal opportunity
- Lodge the annual report to the federal Workplace Gender Equality Agency

State Managers

- In conjunction with the General Manager, investigate complaints of harassment and discrimination
- Model appropriate behaviour
- Be an exemplar of privacy and confidentiality at all times
- Treat all complaints seriously and sensitively and attend to them promptly

Warning - Uncontrolled when printed! Please ensure that you are using the latest version by checking the intranet.

Managers

- Every manager and supervisor is expected to protect employees, contractors, apprentices/trainees and others in the workplace from harassment and discrimination
- Implement the Equal Opportunity, Discrimination and Harassment Policy and on-going training
- Ensure that this policy is actively pursued
- Ensure that no employee is subjected to harassment or discrimination and that complainants and witnesses are not disadvantaged in any way

Employees

- Report related incidents to the relevant State Manager or Industry Consultant
- Do not participate in harassing or discriminatory behaviour
- Comply with this policy at all times

6 POLICY

NextGen Jobs believes that every individual should be treated with respect and dignity.

Harassment and discrimination will not be tolerated at NextGen Jobs workplaces or Employer Partner workplaces.

All employees, apprentices and trainees are expected to contribute towards a discrimination and harassment free workplace and can be liable for the outcome of any action in breach of this policy.

NextGen Jobs will take all reasonable steps to prevent discrimination, harassment, vilification and victimisation and through the distribution of policy material and proactive education.

NextGen Jobs supports the right for any individual to object to harassment or discrimination.

NextGen Jobs will not condone inappropriate behaviour of any kind. In cases where inappropriate behaviour has resulted in proven discrimination, harassment, vilification or victimisation, disciplinary action will be taken against the perpetrator.

All equal opportunity, harassment and discrimination issues will be sensitively, confidentially and promptly handled.

All complaints of inappropriate behaviour will be treated seriously and investigated in a timely and confidential manner. Refer to the Complaints and Grievances Policy for full details.

The principles of natural justice will be adhered to during all investigations to ensure everyone is treated fairly and has the right to present their view.

Employees who make a complaint of harassment or discrimination will not suffer any victimisation by NextGen Jobs for making the complaint. This also applies to employees who agree to be a witness in a complaint or have a complaint made against them.

If being harassed, the employee should keep notes of all relevant incidents, including dates, times, the person/people involved and conversations.



In the first instance, the person subjected to discrimination or harassment should tell the individual that they find the behaviour offensive and do not want to experience it again. Where this is not possible or unsuccessful, support should be sought from the employee/apprentice/trainee supervisor.

In the case of a serious incident where the police become involved, criminal investigations may well proceed in conjunction with the internal investigation. External personnel such as a counsellor may also be party to internal procedures. Internal disciplinary action and criminal penalties can apply simultaneously.

This policy is available to all employees, apprentices and trainees and provided at orientation.

NextGen Jobs will:

- Be proactive in managing its compliance with the relevant Acts
- Inform employees, apprentices, trainees and contractors about the objectives and philosophy of equal employment opportunity, together with the rationale for the policies and practices, adopted by NextGen Jobs
- Ensure everyone is aware of their personal rights and responsibilities under equal employment opportunity law
- Inform managers that they need to take all reasonable steps to prevent inappropriate behaviour in the workplace and during work related functions, and that they should lead by example
- Establish and maintain internal mechanisms to deal with complaints concerning discrimination, harassment, vilification and victimisation
- Ensure that complaint procedures, both internal and external, are understood by all employees, apprentices, trainees and contractors
- Ensure that all NextGen Jobs publicity, media, publications and events are conducted in accordance with equal employment opportunity principles

Employment Practices

NextGen Jobs will:

- Ensure that all recruitment procedures are discrimination and harassment free
- Ensure that all selection interviews are conducted by panels that are aware of, and use non-discriminatory practices
- Ensure that all in-house management/training programs cover equal employment opportunity principles and the means towards achieving an equitable workplace
- Support new employees, apprentices, trainees and contractors, irrespective of difference or any disadvantage suffered
- Promote the principle objectives of the Workplace Gender Equality Act 2012 (Act), and report annually to the Workplace Gender Equality Agency

Making Equal Opportunity and Discrimination Complaints

NextGen Jobs will treat all complaints of discrimination, harassment, vilification and victimisation seriously and in a confidential manner. It is the responsibility of any person making a complaint to act in good faith, and to ensure that the matter is discussed with an appropriate person.

NextGen Jobs is committed to preventing incidents of sexual harassment by means of policy, education and training programs and has outlined in its Human Resources Manual the process for the resolution of complaints. Any person who claims to have experienced discrimination or harassment:

- Is entitled to resolve the matter with support and assistance from NextGen Jobs
- Is offered personal counselling upon recommendation of the appropriate manager
- Is entitled to pursue a complaint externally under the provisions of the relevant Federal and State anti-discrimination laws

In accordance with the principles of natural justice, any person who has had a complaint made against them shall be advised of their rights under the relevant legislation, this includes conveying the allegations to the alleged harasser in full and the alleged the opportunity to respond and defend themselves against the allegations.

7 RECORDS

Related Documents/Forms/Policies	Storage
Bullying Policy	SharePoint
Complaints and Grievances Policy	SharePoint
Counselling and Disciplining – Apprentices and Trainees Policy	SharePoint
Counselling and Disciplining – Internal Policy	SharePoint
Feedback and Continuous Improvement Policy	SharePoint
Human Resources Manual	SharePoint
Privacy Policy	SharePoint

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