

## 1. Purpose

The RTO recognises the right of all staff and students to a RTO environment free from harassment, bullying and discrimination and is committed to providing safe and inclusive campus communities.

The RTO has zero tolerance for harassment, bullying and discrimination and expects that all staff will behave professionally, with respect for others in accordance with the Code of Conduct and relevant legislation.

## 2. Policy Statement

Belelmo Pty Ltd Essential Business Training - RTO 91492 is committed to providing quality training and assessment products and services in compliance with the Standards for Registered Training Organisations (RTOs) 2015.

This policy applies to all employees and any other workers such as contractors engaged by the RTO. It applies in the workplace, when you are working off-site and during any activity undertaken in the course of employment, including work-related events such as business trips, meetings, social events and training programs.

Any grievances raised under this policy will be treated seriously and as confidentially as possible. You will not be penalised or disadvantaged as a result of raising any genuine concern or complaint.

Relevant and appropriate disciplinary action will be taken against anyone found to have breached this policy, which may include, but is not limited to summary dismissal.

This policy should be read in conjunction with:

- Critical Incident and Student Support Policy and Procedure
- Privacy Policy and Procedure
- Access and Equity Policy and Procedure

## 3. Definitions

### Discrimination

Discrimination occurs when a person treats, or proposes to treat, another person less favourably than another person because of a protected attribute (direct discrimination), or when a requirement that is the same for everyone has an unfair effect on some people because they would be unable to participate or comply due to a protected attribute (indirect discrimination). The grounds under which discrimination is unlawful and on which discrimination in this policy is based are stated in the Equal Opportunity Act 1984 (Western Australia).

Unlawful workplace discrimination, as defined in the Fair Work Act 2009 (Commonwealth), occurs when an employer takes adverse action against a person who is an employee or prospective employee because of the person's race, colour, sex, sexual orientation, age, physical or mental disability, marital

status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

Examples of direct discrimination include where an employer refuses a promotion to a staff member after they have disclosed that they are gay (discrimination on the basis of sexual orientation); and not hiring a young woman who has recently gotten engaged for fear she may get pregnant (sex discrimination).

It could be indirect sex discrimination if a policy says that managers must work full-time, as this might disadvantage women because they are more likely to work part-time because of family responsibilities. The Australian Human Rights Commission Act 1986 and other supporting federal legislation also prohibits discrimination in employment and includes a broad range of attributes and grounds for discrimination in addition to those in State discrimination laws.

## Harassment

Harassment is repeated behaviour that is directed at an individual or group of students or staff and is offensive, humiliating, intimidating or threatening. The behaviour is often unwelcome and makes it difficult for effective work or study to be conducted.

Harassment occurs in circumstances where a reasonable person would have expected that the behaviour was going to be offensive, humiliating or intimidating and may be sexual in nature or based on sex, gender, gender identity, race, disability, sexual orientation or a range of other attributes.

Examples of harassment include telling insulting jokes about particular racial groups; sending offensive emails or messages; sexist jokes or anecdotes including gender-derogatory nicknames; or asking repeated intrusive questions about someone's personal life, for example asking about their family plans or commitments or their sexual orientation.

Sexual Harassment is a form of harassment and includes any unwelcome or unsolicited conduct of a sexual nature that is offensive, humiliating, intimidating or threatening. The behaviour does not have to be repeated for it to constitute sexual harassment. Sexual harassment is unlawful under the Sex Discrimination Act 1984 (Commonwealth) and constitutes misconduct.

## Sexual Assault

Sexual assault is unlawful and constitutes serious misconduct. Sexual assault is any unwanted or forced sexual act or behaviour that occurs without consent. Sexual assault occurs when a person indecently assaults another person or procures another person, without their consent, to commit a sexual act.

## Consent

Consent must be freely and voluntarily given by a person with the cognitive capacity to do so and can be revoked at any time. Consent cannot be given by an individual who is unconscious or asleep or under the influence of drugs or alcohol.

Further, and in accordance with state criminal codes a person's consent to an act is not freely and voluntarily given if it is obtained:

- by force; or
- by threat or intimidation; or
- by fear of bodily harm; or
- by exercise of authority; or
- by false and fraudulent representations about the nature or purpose of the act; or
- by a mistaken belief induced by the accused person that the accused person was the person's sexual partner.

### Workplace Bullying

As outlined in the Fair Work Act 2009, a worker is bullied at work when an individual, or group of individuals repeatedly behaves unreasonably towards the worker, or a group of workers and the behaviour creates a risk to health and safety.

Examples of bullying are excluding a person from work related events; behaving aggressively towards others; and placing unreasonable work demands on a staff member or group of staff. Workplace bullying can be carried out in a variety of ways including through verbal or physical abuse, through email, text messages, internet chat rooms, instant messaging or other social media channels.

In some cases, workplace bullying can continue outside of the workplace. Workplace bullying can also be directed at or perpetrated by other people at the workplace such as clients, patients, students, customers and members of the public (Safe Work Australia, Guide for Preventing and Responding to Workplace Bullying, 2016).

### Vilification

Unlawful vilification is a public act which is capable of inciting hatred, serious content for, or severe ridicule of a person or group of persons on the grounds of race, religion, sexuality or gender identity. Examples of vilification are racist or antireligious artworks or expressions painted on buildings; and calling out or broadcasting racist, homophobic or transphobic remarks and inviting others to do the same.

As outlined in the state Anti-Discrimination legislation there are some exceptions which ensure the right of freedom of speech is not unduly restricted, including, but not limited to, a public act done reasonably and in good faith for purposes in the public interest, including discussion and debate or for academic, artistic, scientific, or research purposes.

## Consensual Personal Relationship

Consensual personal relationships include consensual sexual, intimate and/or romantic relationships between adults of any sex or gender identity. Relationships of this kind may be on a casual, periodic or regular basis and may or may not constitute a primary relationship.

A familial relationship of spouse or de facto partner also constitutes a consensual personal relationship.

## 4. Prevention

The RTO is committed to promoting and supporting equity, diversity and inclusion and aims to eliminate all forms of workplace harassment, bullying and discrimination from its campuses. Understanding that trainer & assessors hold a position of authority over students, the importance of clear communication is of utmost importance.

The RTO will ensure that staff are informed of this policy and their responsibilities in ensuring that it is upheld. Further, the RTO will ensure that managers and other supervisory staff are aware of and act on their particular responsibilities in the prevention, as far as possible, of harassment, bullying and discrimination and in responding to and resolving complaints in accordance with the procedures.

All staff, including those with supervisory and/or management roles, have a responsibility to prevent, as far as possible, and if necessary, respond to behaviour such as bullying, harassment and discrimination. As such, all staff are recommended to complete harassment and discrimination training online, both on commencement at the RTO and then at least every two years to ensure that their knowledge is up to date. Free training is available through the College of Law, link is provided below:

<https://www.collaw.edu.au/events/2021/04/21/the-iba-and-the-college-of-law-launch-online-anti-harassment-series>

## Disclosures and Complaints

The RTO has zero tolerance and provides options for informal disclosure and formal complaints. Complaints will be treated seriously and investigated promptly. All documentation related to the resolution process will be confidential with the principles of natural justice applied.

The RTO expects that all complaints made under this policy will be made in good faith.

Disciplinary procedures may be initiated if a complaint is found to be frivolous or vexatious.

The RTO does not tolerate victimisation of individuals who have taken action under this policy and will take reasonable steps to ensure that affected individuals are not victimised.

In the event that complaints provide evidence of unlawful activity, this information will be provided to the police for full investigation. The RTO will cooperate with any legal investigation fully and in good faith.

## ***Reports of Sexual Harassment***

On receipt of a report of sexual harassment or sexual assault, and where the complainant has requested intervention, appropriate measures may be put in place to support the health and wellbeing of affected individuals, as well as enable continuity to the work or learning environment during the process of an investigation. Appropriate measures will be at the discretion of the Directors for staff or students affected by sexual assault or sexual harassment.

## ***Disclosure and Confidentiality***

The RTO will support individuals who have been affected by sexual assault and sexual harassment to manage their response on their own terms and when they feel safe and confident to do so. The RTO will at all times prioritise the health and safety of the affected individual however will not use or disclose personal information unless that individual is aware of or has consented to that use of disclosure for the purposes of referral to support or reporting services. In accordance with the RTO Privacy Policy, the RTO may use or disclose personal information where required by law (for example, instances of child sexual abuse/assault), or where it is necessary for certain types of law enforcement, or where it is necessary to protect against a serious and imminent threat to a person's life or health.

## **5. Referral to external agencies**

In the event that an individual is unsatisfied with the outcome of a complaint and / or investigation, the following bodies can be contacted:

- Australian Skills Quality Authority (ASQA) (VET Regulator)
- Australian Human Rights Commission
- Fair Work Commission

## **6. Disclosure of pre-existing relationships**

Understanding that the assessor-student relationship is not an equal power relationship, the RTO does not condone trainers or assessors actively seeking relationships with students. Where a student presents that has a pre-existing relationship with a trainer and assessor, the assessor is required to disclose this to RTO management so that a conflict-of-interest procedure can be put in place to ensure fairness and validity within the assessment process.

Where students are under the age of 18, the RTO has a strict policy that no sexual relationships or advances will be tolerated and will result in immediate dismissal due to serious misconduct and the matter may be referred to the police for further investigation.

Pre-existing relationships include but are not limited to:

- There is a direct familial connection (father, daughter, aunts, cousins, etc.)
- There is a familial connection (father, daughter, aunts, cousins, etc.) through a spouse or de facto
- There is or has been a current or previous consensual personal relationship

- There is or has been a current or previous consensual personal relationship through a spouse or de factor

### 7. Monitoring and Improvement

All Bullying and Harassment practices are monitored by the Directors of the RTO and areas for improvement identified and acted upon. (See Continuous Improvement & Quality Management Policy)

#### Policy Review

This policy will be reviewed each year and as a standing item, include details of the date it was reviewed and any changes.

- November 2022 - initial creation

#### Policy Additions or Amendments

Separate to the mandated annual review, the policy may be varied at any time due to legislative changes or to fall in line with widely accepted best practices in the workplace. In the event of any changes, the policy will be updated, and relevant stakeholders advised.

<NAME> (Position)