

Respectful Behaviours Policy

1. Background

Carclew is an Incorporated Association and a semi-government authority and staff are obliged to abide by the *Code of Ethics for the South Australian Public Sector* which define professional conduct and behaviour.

2. Purpose

To ensure everyone involved with Carclew is aware of Carclew's zero tolerance position on bullying, discrimination, victimisation, harassment and sexual harassment. This policy informs the related procedures to be followed should any grievances arise.

3. Scope

This policy applies to staff, contractors, volunteers and Board members and it forms part of the contract of employment/engagement. All grant recipients must comply with Carclew's Respectful Behaviours Policy.

4. Definitions

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| Respectful Treatment | Treating people in a polite, courteous and considerate manner. This includes behaviours, communication and actions. |
| Unreasonable / Inappropriate behaviour | Behaviour that a reasonable person, having regard for the circumstances, would see as unreasonable, including behaviour that is victimisation, humiliating, intimidating or threatening. |
| Wellbeing | A condition of psychological, emotional and physical balance. |
| Discrimination | To treat a person less favourably under one of the grounds as prescribed in law. |
| Indirect Discrimination | Occurs when there is a requirement or rule that appears on the surface to treat everyone equitably but which in fact has an unfavourable effect on a certain individual or group of people. |
| Racial discrimination | When a person is treated less favourably than another person in a similar situation because of their race, colour, descent, nationality or ethnic origin or immigrant status. |
| Victimisation | To punish or threaten to punish someone. |
| Harassment | Covers a wide range of behaviours of an offensive nature. Commonly understood as the act of systematic and/or continued unwanted and annoying actions of one party or a group, including threats or demands. |
| Client | Program participant or service recipient |
| Sexual Harassment | An unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated and/or intimidated, where a reasonable person would anticipate that reaction in the circumstances. |
| Bullying | An ongoing misuse of power in a relationship through repeated verbal, physical and/or social behaviour that causes physical and/or psychological harm. It can involve an individual or a group misusing their power over one or more persons. Bullying can happen in person or online, and it can be overt or covert. |
| Workplace Bullying | Behaviour that is repeated, systematic and directed towards an employee or group of employees |

5. Policy Statement

Carclew is committed to supporting the wellbeing of our people. You must treat others with respect, and you must seek to be an example of good behaviour in the workplace. No form

of bullying, discrimination, victimisation, harassment or sexual harassment will be tolerated. Carclew will take an active approach to prevent, address and eliminate such behaviours.

5.1 Safe and fair work environment

You must take every precaution reasonable to protect the health, safety and welfare of those in the workplace. You must comply with the *Work Health and Safety Act 2012* and *Fair Work Act 1994* and promote safe and fair working practices and environments for people accessing the organisation's facilities.

Under the *Work Health and Safety Act 2012* you have a duty of care to ensure that no one is subjected to victimising, humiliating, undermining or threatening behaviour. You also have this responsibility towards each other and clients.

5.2 Victimisation, Bullying and/or Harassment Examples

Examples of victimisation, bullying or harassment (intentional or unintentional, repeated, unreasonable and create a risk to health and safety) include, but are not limited to:

- Abusive, insulting or offensive language or comments
- Unjustified criticism or complaints
- Continuously and deliberately excluding someone from workplace activities
- Withholding information that is vital for effective performance
- Setting unreasonable timelines or constantly changing deadlines
- Setting tasks that are unreasonably below or beyond a person's skill level
- Denying access to information, supervision, consultation or resources such that it has a detriment to the worker
- Spreading misinformation or malicious rumours

Single incidents and conflicts or disagreements between equals, whether in person or online, are not defined as bullying. Bullying behaviour also does not include:

- Reasonable action taken in a reasonable manner by an employer to transfer, demote, discipline, counsel, retrench or dismiss an employee
- A decision by an employer, based on reasonable grounds, not to award or provide a promotion, transfer, or benefit in connection with an employee
- Reasonable administrative action taken in a reasonable manner by an employer in connection with an employee's performance

5.3 Sexual Harassment Examples

The *Sex Discrimination Act 1984* stipulates that it is unlawful for a person to sexually harass another person including in employment and education.

What is important is how the behaviour was perceived, not necessarily how it was intended. Workplace and work related behaviour that qualifies as sexual harassment can be verbal, written, visual or physical.

Behaviour that is based on mutual attraction, friendship and respect is not sexual harassment.

Sexual harassment can take many forms, including, but not limited to, unwelcome behaviour such as:

- Touching or kissing in a sexual way
- Comments or behaviours such as leering or staring, that is sexually suggestive
- Sexually explicit pictures, objects or reading matter
- Direct or implied sexual propositions, or request for dates
- Intrusive questions about sexual activity

5.4 Reporting and Resolution

You are urged to report any suspected cases of bullying, discrimination, victimisation, harassment and sexual harassment. Such reports will be treated seriously and promptly with sensitivity. The Carclew *Grievance Resolution Policy and Procedure* will guide the process.

The *Whistleblowers Protection Act 1993* provides protection for people disclosing illegal, dangerous and improper conduct.

A person may elect, according to the nature and seriousness of the behaviour to:

- Resolve the issue informally by approaching the parties involved directly and discussing their concerns.
- Report inappropriate behaviour to the Chief Executive, the Senior Manager - Finance and Operations or to a nominated Grievance Contact Officer.
- Follow the complaint process as outlined in Carclew's *Respectful Behaviours Procedures*.
- Approach an external agency (i.e. Commissioner for Equal Opportunity, Australian Human Rights Commission, the Office of the Employee Ombudsman, Work Health and Safety Inspector). Every employee retains the right, at any time, to lodge a complaint or appeal with an outside agency.

The person who is the subject of the complaint must be notified. Both complainant and the subject of the complaint have the right to have support or representation during any investigation. Those involved in the process will be protected from victimisation. If the complaint was not made in good faith disciplinary action may be taken against the complainant.

5.5 Recruitment practices

Carclew has a firm commitment to equal opportunity principles and will ensure that no discriminatory policies, practices or procedures exist in any aspect of employment, throughout the recruitment process.

5.6 Compliance and non-compliance

Any breach of Carclew policies will be taken seriously and misconduct may be liable to disciplinary action. Consequences may include a warning, suspension, or termination of employment, and will be implemented in accordance with appropriate legislative procedures.

6. **Responsibility for implementation**

The Chief Executive will advise staff upon endorsement by the Board. The policy and procedures will be available on the Carclew server, listed on the policy webpage and included in induction packs.

7. **Legislation and Supporting Documents**

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| <i>Public Sector Act 2009</i> |
| <i>Public Sector (Honesty and Accountability) Act 1995</i> |
| <i>Work Health and Safety Act 2012</i> |
| <i>Equal Opportunity Act 1984</i> |
| <i>Fair Work Act 1994</i> |
| <i>Sex Discrimination Act 1984 (Cth)</i> |
| <i>Racial Vilification Act 1996</i> |
| <i>Whistleblowers Protection Act 1993</i> |
| <i>Code of Ethics for the South Australian Public Sector</i> |
| <i>Public Sector Values</i> |

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| Arts South Australia Respectful Behaviours http://arts.sa.gov.au/respectful-behaviours |
| Department of State Development Respectful Behaviours Policy: http://arts.sa.gov.au/system/files/documents/DSD%20Respectful%20Behaviours%20Policy.pdf |
| Australian Human Rights Commission www.humanrights.gov.au |
| <i>Carclew Respectful Behaviours Procedure</i> |
| <i>Carclew Code of Conduct</i> |
| <i>Carclew Grievance Resolution Policy</i> |
| <i>Carclew Workplace Health and Safety Policy</i> |
| <i>Carclew Child Safe Environment Policy</i> |

Acknowledgment

In developing this policy Carclew has drawn on resources prepared by Arts South Australia, the Department for Industry and Skills, the Institute of Community Directors Australia, the Australian Human Rights Commission and the Fair Work Ombudsmen.

Disclaimer

This policy does not represent legal advice. If you have any queries about your obligations, you should seek your own independent legal advice.