



KAC acknowledges the right of all persons working with KAC, in any capacity, to be treated fairly and have access to equal opportunities. This policy is aimed at ensuring employees, clients, board members, partner organisations, volunteers, contractors and potential employees are not subjected to unacceptable behaviour in the workplace and enjoy an environment that is free of discrimination and harassment.

Inappropriate behaviour such as discrimination, harassment, sexual harassment, bullying, victimisation and vilification is misconduct and will not be tolerated by KAC.

This policy applies to all employees and volunteers of KAC, including board members, partner organisations, volunteers, clients, contractors, full-time, part-time, permanent, temporary and casual employees (generally referred to as "employees" throughout this policy), regardless of location.

### **Breach of this Policy**

All inappropriate behaviour outlined below is contrary to KAC's policy. Breaches of this policy will be taken very seriously and may result in disciplinary action being taken against the alleged perpetrator up to and including termination of employment.

Employees should also be aware that they are responsible for their own actions and claims of discrimination, harassment, victimisation and vilification may be brought against them through one of the following forms of liability:

- personal liability against the person who is the alleged perpetrator;
- accessory liability against anyone who permits or in any way assists in the alleged behaviour, for example, a manager who is on notice that an incident has occurred but fails to act; or
- vicarious liability, in which KAC is liable if it failed to take reasonable steps to prevent the harassment or other inappropriate behaviour.

### **KAC's Role**

KAC has a responsibility to take reasonable steps to prevent discrimination, harassment, sexual harassment, bullying, victimisation and vilification from occurring in the workplace. KAC will meet this responsibility by putting this policy in place, educating employees about inappropriate behaviour, implementing grievance procedures and ensuring compliance by all in the workplace.

Any complaint regarding any of the behaviours set out in this policy will be taken very seriously. All complaints will be dealt with in a sensitive and confidential manner. Each complaint will be investigated and, if substantiated, appropriate disciplinary action will be taken. In serious cases this may involve termination of employment of the perpetrator or for non-employees termination of his or her arrangement with KAC.

Individuals who make complaints which are found to be malicious or vexatious will also be subject to disciplinary action.



### Employee's Role

Each employee has a responsibility to ensure that he or she does not discriminate against, harass, bully, victimise or vilify any another employee, client or any other person at the workplace. Employees should be aware that they can be held legally responsible for their unlawful acts or the acts of persons on their behalf and employees may also be subject to disciplinary action. This also applies to employees who assist or encourage other employees in inappropriate behaviour such as bullying or harassment.

Employees must ensure that the principles of EEO are also applied to clients, guests, suppliers and any other person or organisation that deals with KAC.

### Manager's Role

Managers include all team leaders, managers, and executive employees. Managers have an important role in the prevention of inappropriate workplace behaviour. Firstly, managers must ensure that they do not discriminate against, harass, bully, victimise or vilify employees or any other person. Secondly, managers must ensure that all employees understand and implement this policy and ensure that an appropriate work culture is maintained. If a manager observes inappropriate behaviour, he or she **must** take steps to stop it and warn the person of the consequences if the behaviour continues. If a person approaches a manager with a complaint about inappropriate behaviour, the manager must notify the Executive Officer - Human Resources immediately.

Managers must ensure that the principles of EEO are also applied to guests, partners, suppliers and any other person or organisation that deals with KAC.

### Equal Employment Opportunity (EEO)

KAC is committed to ensuring that all employees enjoy equal opportunity in the workplace. This means that employees are treated fairly and equitably when making employment decisions and that unlawful discrimination does not take place. KAC will be guided by the principles of anti-discrimination in the decisions it makes in relation to employment decisions and advancement including such areas as:

- recruitment and selection, including decisions regarding which candidates will be interviewed;
- training and development opportunities;
- promotion opportunities;
- work allocation;
- hours of work;
- remuneration and benefits;
- leave arrangements, including pregnancy arrangements and maternity and parental leave;
- performance assessment;
- disciplinary procedures; and



- termination of employment.

### Unlawful Discrimination

Discrimination in the area of work is unlawful or prohibited under Federal, State and Territory legislation. Legislation prohibits both **direct** and **indirect** discrimination.

Direct discrimination occurs where a person is treated less favourably on the basis of one or more of the unlawful grounds described in anti-discrimination legislation (some of these are listed below). Indirect discrimination occurs when a particular requirement, which may appear to be neutral, operates unfairly and is unreasonable in relation to a particular individual or group. For example, a requirement that employees work full-time to receive a particular benefit may amount to indirect discrimination against employees with family responsibilities who work part-time.

Whilst Federal and state legislation differs, discrimination usually occurs when a person distinguishes between an individual or group, so as to cause disadvantage based on certain grounds, including:

- gender or transgender;
- age or retirement age;
- race, colour, national or social origin, descent, ethnicity, or religion;
- mental or physical impairment or disability;
- medical record;
- HIV/AIDS status;
- marital status;
- sexual preference;
- political opinion or activities;
- criminal record where it is irrelevant to employment;
- trade union or employer association activity;
- family and carer's responsibilities;
- pregnancy or potential pregnancy; and
- physical features;

or association with a person who has or is believed to have any of these characteristics.

Please note that discrimination in the area of employment is not unlawful where:

- the ground of discrimination constitutes a "genuine occupational qualification"; or



- the employee cannot perform the inherent requirements of the position, or requires services or facilities to do so, but the provision of those will pose an unjustifiable hardship on KAC.

### Workplace Harassment

Generally, harassment is a form of unlawful discrimination. Harassment is any form of behaviour that is unwelcome and that a reasonable person would have anticipated would:

- humiliate someone; or
- offend someone; or
- intimidate someone.

Workplace harassment usually consists of a pattern of unwelcome behaviour. However, it can consist of just one act. There is no requirement that the harasser intended to offend or harm in order for the behaviour to be unlawful. Workplace harassment can be based on a number of grounds including race, disability, age, pregnancy, marital status, homosexuality, transgender or HIV/AIDS status.

KAC expressly prohibits all forms of harassment in the workplace.

### Sexual Harassment

The most common form of workplace harassment is sexual harassment. Sexual harassment is behaviour of a sexual nature, which is unwelcome and that a reasonable person would have anticipated would offend, intimidate or humiliate the person being harassed. There is no requirement that the harasser intend to offend, humiliate or intimidate another person. A person's **intention is irrelevant**.

Examples of sexual harassment include but are not limited to the behaviours listed below:

- Comments about a person's body or appearance.
- Making remarks, jokes or comments of a sexual nature.
- Making gender-based insults or taunts.
- Subjecting another person to unwelcome conduct of a sexual nature whether it is through conversation, action or the display of material another person may find offensive. This includes having conversations of a sexual nature in front of a person who may be offended. It also includes the sending of emails, display of posters, screen savers or other material of a sexual nature, which a person may find offensive.
- Making unwelcome sexual advances. This includes any case where the complainant has previously rejected advances or indicated they are unwelcome.
- Making any request for sexual favours. This includes suggestions or implications that a person would receive special treatment in return, or less favourable treatment if the request was rejected.

KAC expressly prohibits all forms of sexual harassment in the workplace.



The boundaries of what constitutes sexual harassment may vary between individuals. It is the responsibility of all employees to recognise and respect the boundaries of others and to err on the side of caution. Employees should exercise particular caution in relation to any employees in less senior positions, particularly any employees directly supervised. The provisions of the relevant legislation include employees, prospective employees, volunteers, contractors, clients, customers or any other person at the workplace.

### **Bullying**

Bullying in an employment context consists of a repeated, unreasonable pattern of behaviour, directed towards an employee by another person or group of people, which may be considered unreasonable or inappropriate workplace behaviour, or which may create a risk to health and safety. Unreasonable behaviour is such that a reasonable person, having regard to all the circumstances, could anticipate that the behaviour would humiliate, intimidate, undermine or threaten an employee or group of employees. Examples of bullying an employee or group of employees may include:

- verbal or physical abuse,
- excluding or isolating an employee or group of employees;
- psychological harassment;
- deliberately undermining work performance, for example, by refusing to give sufficient instructions, imposing unnecessary deadlines or impossible assignments;
- belittling an employee's contribution or opinion;
- publicly criticising an employee or employees; or
- sending aggressive emails or notes to an employee.

KAC expressly prohibits all forms of bullying in the workplace.

### **Discrimination, harassment or bullying outside the office premises and outside usual business hours**

Employees should be aware that discrimination, harassment and bullying can take place outside their usual work premises and usual business hours. An employee's workplace may be broadly defined to include situations such as a work-related function or party, when an employee makes unwelcome telephone calls or visits another employee at home, or whilst visiting a field office or other work related location.

### **Victimisation**

Victimisation is any conduct that disadvantages a person because he or she has complained, or intends to complain, about being harassed, sexually harassed, discriminated against, bullied or vilified. This also includes any conduct which disadvantages a person who is assisting or supporting a person who is making such a complaint.

Victimisation can take any form including intimidation, exclusion from team or organisational activities, withholding opportunities, dismissing an employee or refusing a promotion, threatening a person or limiting their access to benefits. If an employee lodges



a complaint under Federal or State law, it is unlawful to victimise that employee or any other person assisting with the complaint. There are penalties for individuals and corporations, which includes fines and imprisonment.

KAC expressly prohibits all forms of victimisation in the workplace.

### **Vilification**

Vilification is the use of acts or words in public which provoke hatred, ridicule or contempt for a person or group of people. Vilification is unlawful if it is on the grounds of race, homosexuality, transgender or HIV/AIDS status. Examples of vilification include displaying or communicating offensive material, calling people names and making offensive comments.

KAC expressly prohibits all forms of vilification in the workplace.

### **Making a complaint**

Any person who believes that he or she is being discriminated against, harassed, bullied, victimised or vilified should take the steps set out below:

1. Where possible, tell the person that their behaviour is unacceptable, and that it must stop. This is important as silence may be misunderstood as consent.
2. Report the behaviour or incident to a Manager or the Chief Executive Officer.
3. Keep the complaint confidential. This will minimise gossip and assist in resolving the dispute as quickly and sensitively as possible.

If an employee witnesses an incident of discrimination, harassment, bullying, victimisation or vilification they should:

1. Report the behaviour or incident to the Chief Executive Officer.
2. Keep the behaviour or incident confidential.

For any queries or more information on discrimination, harassment, bullying, victimisation or vilification or on the complaint handling process, please contact the Chief Executive Officer.