Workplace Discrimination and Harassment Policy

Scope

This policy applies to:

- Board members.
- All staff, including managers and supervisors; full-time, part-time or casual, temporary or permanent staff; job candidates; student placements, contractors, sub-contractors and volunteers.
- How ICTV provides services to clients and how it interacts with other members of the public.
- All aspects of employment, recruitment, and selection; conditions and benefits; training and promotion; task allocation; shifts; hours; leave arrangements; workload; equipment and transport.
- On-site, off-site or after-hours work; work-related social functions; conferences – wherever and whenever staff may be as a result of their ICTV duties.
- Staff treatment of other staff, of clients, and of other members of the public encountered in the course of their ICTV duties.

Aims

ICTV is committed to providing a safe, flexible and respectful environment for staff and clients free from all forms of discrimination, bullying and sexual harassment.

All ICTV staff are required to treat others with dignity, courtesy and respect.

By effectively implementing our *Workplace discrimination and harassment policy* we will attract and retain talented staff and create a positive environment for staff.

All employers, including ICTV, not only have a 'positive duty' to eliminate harassment and discrimination, ICTV must ensure the workplace environment is not 'hostile on the ground of sex'.

Responsibilities of ICTV as employer

ICTV is responsible for ensuring the workplace is safe and free from sexual harassment and has a positive duty to take reasonable and proportionate measures to eliminate unlawful sex discrimination and harassment from the workplace.

This includes:

- Carrying out an audit of areas of risk of sexual harassment or discrimination occurring in the workplace and implement appropriate controls to deal with the risks.

- Ensure that the business has appropriate policies and procedures to deal with harassment and discrimination.
- ICTV will ensure that all employees are adequately trained in regards to harassment and discrimination (ie what is unacceptable behaviour and how to raise a complaint) and that all managers are adequately trained in dealing with issues of harassment and discrimination that arise. This training will be repeated at reasonably regular intervals.

Staff rights and responsibilities

All staff are entitled to:

- recruitment and selection decisions based on merit and not affected by irrelevant personal characteristics
- work free from discrimination, bullying and sexual harassment
- the right to raise issues or to make an enquiry or complaint in a reasonable and respectful manner without being victimised
- reasonable flexibility in working arrangements, especially where needed to accommodate their family responsibilities, disability, religious beliefs or culture.

All staff must:

- follow the standards of behaviour outlined in this policy
- offer support to people who experience discrimination, bullying or sexual harassment, including providing information about how to make a complaint
- avoid gossip and respect the confidentiality of complaint resolution procedures
- treat everyone with dignity, courtesy and respect.

Additional responsibilities of managers and supervisors

Managers and supervisors must also:

- model appropriate standards of behaviour
- take steps to educate and make staff aware of their obligations under this policy and the law
- intervene quickly and appropriately when they become aware of inappropriate behaviour
- act fairly to resolve issues and enforce workplace behavioural standards, making sure relevant parties are heard
- help staff resolve complaints informally
- refer formal complaints about breaches of this policy to the appropriate complaint handling officer for investigation
- ensure staff who raise an issue or make a complaint are not victimised
- ensure that recruitment decisions are based on merit and that no discriminatory requests for information are made
- seriously consider requests for flexible work arrangements.

Unacceptable workplace conduct

Discrimination, bullying and sexual harassment are unacceptable at ICTV and are unlawful under the following legislation:

- *Sex Discrimination Act 1984* (Cth)
- *Racial Discrimination Act 1975* (Cth)
- *Disability Discrimination Act 1992* (Cth)
- *Age Discrimination Act 2004* (Cth)
- *Australian Human Rights Commission Act 1986* (Cth).

Staff (including managers) found to have engaged in such conduct might be counselled, warned or disciplined. Severe or repeated breaches can lead to formal discipline up to and including dismissal.

Discrimination

Discrimination is treating, or proposing to treat, someone unfavourably because of a personal characteristic protected by the law, such as sex, age, race or disability.

Discrimination can occur:

Directly, when a person or group is treated less favourably than another person or group in a similar situation because of a personal characteristic protected by law (see list below).

Indirectly, when an unreasonable requirement, condition or practice is imposed that has, or is likely to have, the effect of disadvantaging people with a personal characteristic protected by law (see list below).

Protected personal characteristics under Federal discrimination law include:

- a disability, disease or injury, including work-related injury
- parental status or status as a carer, for example, because they are responsible for caring for children or other family members
- race, colour, descent, national origin, or ethnic background
- age, whether young or old, or because of age in general
- sex
- industrial activity, including being a member of an industrial organisation like a trade union or taking part in industrial activity, or deciding not to join a union
- religion
- pregnancy and breastfeeding
- sexual orientation, intersex status or gender identity, including gay, lesbian, bisexual, transsexual, transgender, queer and heterosexual
- marital status, whether married, divorced, unmarried or in a de facto relationship or same sex relationship
- political opinion
- social origin

- medical record
- an association with someone who has, or is assumed to have, one of these characteristics, such as being the parent of a child with a disability.

It is also against the law to treat someone unfavourably because you assume they have a personal characteristic or may have it at some time in the future.

Bullying

If someone is being bullied because of a personal characteristic protected by equal opportunity law, it is a form of discrimination.

Bullying can take many forms, including jokes, teasing, nicknames, emails, pictures, text messages, social isolation or ignoring people, or unfair work practices. The behaviour does not have to be repeated to be discrimination, it may be a one-off event.

Behaviours that may constitute bullying include:

- sarcasm and other forms of demeaning language
- threats, abuse or shouting
- coercion
- isolation
- inappropriate blaming
- ganging up
- constant unconstructive criticism
- deliberately withholding information or equipment that a person needs to do their job or access their entitlements
- unreasonable refusal of requests for leave, training or other workplace benefits.

Bullying is unacceptable at ICTV and may also be against occupational health and safety law.

Sexual harassment

Sexual harassment is a specific and serious form of harassment. It is unwelcome sexual behaviour, which could be expected to make a person feel offended, humiliated or intimidated. Sexual harassment can be physical, spoken or written. It can include:

- 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 unwanted requests to go out
- requests for sex
- sexually explicit posts on social networking sites

- insults or taunts of a sexual nature
- intrusive questions or statements about a person's private life
- sending sexually explicit emails or text messages
- inappropriate advances on social networking sites
- accessing sexually explicit internet sites
- behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

Just because someone does not object to inappropriate behaviour in the workplace at the time, it does not mean that they are consenting to the behaviour.

Sexual harassment is covered in the workplace when it happens at work, at work-related events, between people sharing the same workplace, or between colleagues outside of work.

All staff and volunteers have the same rights and responsibilities in relation to sexual harassment.

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

All incidents of sexual harassment – no matter how large or small or who is involved – require employers and managers to respond quickly and appropriately.

ICTV recognises that comments and behaviour that do not offend one person can offend another. This policy requires all staff and volunteers to respect other people's limits.

Victimisation

Victimisation is subjecting or threatening to subject someone to a detriment because they have asserted their rights under equal opportunity law, made a complaint, helped someone else make a complaint, or refused to do something because it would be discrimination, sexual harassment, or victimisation. Victimisation is against the law.

It is also victimisation to threaten someone (such as a witness) who may be involved in investigating an equal opportunity concern or complaint.

Victimisation is a very serious breach of this policy and is likely (depending on the severity and circumstances) to result in formal discipline against the perpetrator.

ICTV has a zero-tolerance approach to victimisation.

Gossip

It is unacceptable for staff at ICTV to talk with other staff members, clients or suppliers about any complaint of discrimination or harassment.

Breaching the confidentiality of a formal complaint investigation or inappropriately disclosing personal information obtained in a professional role (for example, as a manager) is a serious breach of this policy and may lead to formal discipline.

Merit at ICTV

All recruitment and job selection decisions at ICTV will be based on merit – the skills and abilities of the candidate as measured against the inherent requirements of the position – regardless of personal characteristics.

It is unacceptable and may be against the law to ask job candidates questions, or to in any other way seek information, about their personal characteristics, unless this can be shown to be directly relevant to a genuine requirement of the position.

Resolving issues at ICTV

ICTV strongly encourages any staff member who believes they have been discriminated against, bullied, sexually harassed, or victimised to take appropriate action by submitting a complaint to the ICTV General Manager as the Harassment Officer in writing.

1. An authorised representative (General Manager, harassment officer or delegated investigating officer) will interview the employee who complained about the matter. The employee is permitted to bring a support person to the interview.
2. The authorised representative will meet with the person who has been complained about and a written summary of the complaint will be given to that person. They will be provided with an opportunity to respond in another interview with management.
3. Statements from witnesses and other relevant evidence may be obtained.
4. The authorised representative will make a recommendation to the General Manager as to whether the complaint has substance based on the available evidence. This is done in a report documenting the investigation process, the evidence, the finding, and a recommended outcome.
5. The General Manager is required to formally document what action has been taken to resolve the issue within 5 business days. This will be recorded in the official log and the complainant notified on the action taken.
6. Management may act on the recommendation given by the Harassment Officer or relevant manager or after due consideration, decide on an alternative course of action Follow up of the matter will be conducted within two to four weeks, depending on the severity of the matter.
7. Where the review reveals the complaint has not been rectified, the matter will be escalated to the appropriate authority.
8. The complainant may withdraw the complaint. However, as ICTV has a legal obligation to maintain a harassment free workplace, will conduct a workplace audit and risk assessment. ICTV may further investigate the complaint to determine if there is a risk to the health and wellbeing of its staff.
9. If the complaint is substantiated, the possible outcomes can range from an apology, counselling of the person against whom a complaint is found, to disciplinary action, which can range from transfer to an alternative position, a written warning, a first and final warning, to termination of employment.

Other options

The complainant has the right to make a complaint to WorkSafe, the Human Rights and Equal Opportunity Commission or appropriate authorities if they feel that the matter has not been handled in accordance with this policy or feel that the company has been unjustly bias.

Indigenous Community Television Limited's commitment

1. Facilitating access to appropriate training.
2. Providing support for managing complaints.
3. Reviewing and updating policies in consultation with relevant stakeholders.
4. Maintaining Indigenous Community Television Limited's commitment to its relationship with the Equal Opportunity and Human Rights Commissions in promoting harassment free workplaces.
5. The responsibility for providing a working environment free from sexual harassment and workplace bullying is discharged through the business.
6. An employer is required to take action if aware of any behaviour which could constitute sexual harassment, even if no complaint has been lodged. Staff and other persons can be liable for the actions of others if they authorise, encourage or assist harassment, including sexual harassment. In some circumstances, inaction can amount to implicit authorisation.
7. Indigenous Community Television Limited is committed to ensuring that all persons in the workplace are aware of their rights and obligations with respect to sexual harassment and is committed to providing staff with appropriate training and access to information and services.
8. Indigenous Community Television Limited has appointed a harassment manager who can provide information and support in relation to sexual harassment and support any prospective complainant.
9. ICTV will comply with its obligation and compliance to positive duty and WHS duties.

Fairness

The manager must ensure that every complaint is dealt with in a manner that is both procedurally and substantively fair. The principles of natural justice to be observed include:

1. The right of each party to be heard.
2. The right of each party to be treated fairly.
3. The right of the respondent to have a witness or support person, who may be a union representative, present at any meetings.
4. The right of the respondent to know the allegations made agai.st them.
5. The right of the respondent to respond to the allegation(s) made against them; The right of both parties to a decision maker who acts fairly and in good faith.

Counselling

If at any stage throughout the procedure the complainant or respondent or any other person requires counselling, contact should be made with the harassment officer. If staff are uncomfortable using the internal support staff they have the option to use the EASA service, Desert Minds, or contact WorkSafe.

Discipline under this policy

Management of Indigenous Community Television Limited has the responsibility of overseeing this policy. Supervisors and managers will ensure employees are compliant with all areas of this policy, including any disciplinary action resulting from non-compliance.

Further information can be found at FairWork.