

EQUAL EMPLOYMENT OPPORTUNITY, DISCRIMINATION AND SEXUAL HARASSMENT POLICY

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Purpose

Berwick Church of Christ ("the Church") is committed to providing a safe, flexible, and respectful environment for staff, contractors, volunteers, partners, congregation, visitors, and members of the public, free from all forms of discrimination, bullying, sexual harassment, and harassment on the basis of sex. The Church is also committed to prevent conduct that subjects a person to a hostile workplace environment on the basis of sex.

Accordingly, all staff and volunteers are required to treat others with dignity, courtesy, and respect.

By effectively implementing this policy we aim to attract and retain gifted staff and volunteers, and create a positive and safe environment for staff, volunteers, and other persons in our workplace.

Please refer to our Scriptural References for our Safety Policies to understand the foundational principles for our policies.

Scope

This policy applies to:

- The board of Elders.
- All staff, job candidates, student placements, interns, contractors, sub-contractors and volunteers.
- Who the Church provides services to 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 or volunteers may be as a result of their duties.
- Staff and volunteer's treatment of other staff, contractors, volunteers, partners, congregation, visitors, and members of the public encountered in the course of their duties.

Definitions

Please refer to the General Definitions document.

Responsibilities

Elders and Pastors Must:

- Model appropriate standards of behaviour.
- Take steps to educate and make all staff and volunteers aware of their obligations under this policy and the law.
- Intervene quickly and appropriately when they become aware of inappropriate behaviour, or actions associated with this policy.
- Act fairly to resolve issues and enforce workplace behavioural standards, making sure relevant parties are heard.
- Help staff and volunteers resolve complaints informally.
- Refer formal complaints about breaches of this policy to the Senior Pastor or Safety Contact Person for investigation.
- Ensure staff and volunteers 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.

All Staff and Volunteers Must:

- Follow the standards of behaviour outlined in this policy.
- Offer support to people who experience discrimination, bullying, sexual harassment, harassment on the ground of sex, or a workplace environment that is hostile on the ground of sex, 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.

Staff And Volunteers Rights and Responsibilities

All staff and volunteers are entitled to:

- Recruitment and selection decisions based on merit and not affected by irrelevant personal characteristics.
- Work free from discrimination, bullying, sexual harassment, and harassment on the ground of sex.
- Work in an environment that is not hostile on the ground of sex.
- 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, culture, and Christian faith in line with our Statement of Faith.

Steps the Church will take in order to eliminate all forms of sexual harassment, discrimination and victimisation include:

1. Undertaking periodic risk assessments to identify the risk of sexual harassment, discrimination, and victimisation in the workplace;
2. Taking reasonable and proportionate steps to address those risks;
3. Implementing appropriate policies to specify expected behaviours in the workplace including this policy and the Bullying and Harassment Policy;
4. Ensuring there is an effective grievance handling framework in place to address any reports of sexual harassment, discrimination, and victimisation (see our Grievance Handling Policy);
5. Providing appropriate training to all staff and volunteers on all such matters; and
6. Promoting a workplace culture in which all forms of sexual harassment, discrimination and victimisation are not tolerated and in which staff and volunteers are encouraged to report any forms of such behaviour that they are subject to or witness.

Unacceptable Workplace Conduct

Discrimination, bullying, sexual harassment, harassment on the ground of sex and conduct that creates a workplace environment that is hostile on the ground of sex are unacceptable at the Church and are unlawful under legislation including:

- *Fair Work Act 2009*(Cth)
- *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 and volunteers (including Elders) 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 termination of employment.

Under the law staff and volunteers can be held personally liable for certain breaches of discrimination law, and the Church can also be vicariously liable for a member of staff or volunteers' conduct.

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):

For example, a person is harassed and humiliated because of their race.

OR

A staff member is refused promotion because they are 'too old'.

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).

For example, redundancy is decided based on people who have had a worker's compensation claim rather than on merit.

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.
- Pregnancy and breastfeeding.
- 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.

Disability Discrimination

The Church is also required in some circumstances to make "reasonable adjustments" to facilitate staff or volunteers with disabilities to perform the "inherent requirements" of the particular role they perform. The Church will be deemed to have discriminated against a staff member or volunteer if they fail to make these adjustments.

The "inherent requirements" of a position are the essential activities that must be carried out to fulfil the purpose of the position.

An adjustment is not reasonable if it will impose "unjustifiable hardship" on the employer. In assessing unjustifiable hardship factors to be considered include:

- **The nature of the benefit or detriment** to be imposed on any person concerned, including the community.
- The effect of the person's disability.
- The financial circumstances and the estimated amount of expenditure required to be made by the Church.
- The availability of financial and other assistance to the Church.

Examples of adjustments that may in some circumstances be reasonable for the Church to make include:

- **Changing recruitment and selection procedures.** For example, providing a sign language interpreter for a Deaf person or ensuring the medical assessor is familiar with a person's particular disability and how it relates to the job requirements.
- **Modifying Church premises.** For example, making ramps, modifying toilets, or providing flashing lights to alert people with a hearing loss.
- **Changes to job design, work schedules or other work practices.** For example, swapping some duties or providing regular meal breaks for a person with diabetes.
- **Modifying equipment.** For example, lowering a workbench or providing an enlarged computer screen.
- **Providing training or other assistance.** For example, running induction programs for staff members or volunteers with a disability and those they work with, providing a mentor or support person for a person with an intellectual disability, and including staff member or volunteers with a disability in all mainstream training.

It is not unlawful to discriminate against a person because of their disability where:

- They cannot meet the inherent requirements of the job, even when the Church has made any reasonable adjustments; or
- Providing the person with reasonable adjustments to facilitate their disability imposes unjustifiable hardship on the Church.

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 inappropriate jokes, teasing, nicknames, emails, pictures, text messages, social isolation or ignoring people, or unfair work practices.

Under Federal law, this behaviour does not have to be repeated to be discrimination – it may be a one-off event.

Behaviours that may constitute bullying include:

- Demeaning sarcasm and other forms of disparaging 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.

Any form of bullying is unacceptable in the Church and may also be against workplace health and safety law. **The Church has a separate Bullying and Harassment Policy** which staff and volunteers must read and abide by, this deals with bullying and harassment that is not a form of discrimination (i.e. where not based on a protected personal characteristic).

Positive Duty to Eliminate Sexual Harassment

The Church is committed to comply with the positive duty under the Sex Discrimination Act 1984 (Cth) to take reasonable and proportionate measures to eliminate, as far as possible:

1. Sexual harassment (being unwelcome conduct of a sexual nature);
2. Harassment on the ground of sex (being unwelcome conduct based on the sex of the person, but not necessarily sexual in nature);
3. Discrimination on the ground of a person's sex (being differential treatment based on the sex of the person);
4. Conduct that subjects a person to a hostile workplace environment on the ground of sex (being, conduct that results in an intimidating, and humiliating environment for people of one sex, but not necessarily directed at a person);
5. Acts of victimisation that relate to complaints, proceedings, assertions, or allegations in relation to conduct in points 1 to 4 above.

Sexual Harassment and Harassment on the Ground of Sex

Sexual harassment is a specific and serious form of harassment. It is unwelcome sexual behaviour, which could reasonably cause humiliation, or intimidation. 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 objectionable 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. Harassment on the ground of sex occurs, where a person is harassed by reason of:

- their sex; or
- a characteristic that appertains generally to persons of their sex; or
- a characteristic that is generally imputed to persons of their sex.

Ministry and Caregiving Contexts: The provisions of this policy apply equally in all workplace contexts, including pastoral care, counselling, prayer ministry, and other caregiving situations. Physical contact offered in the context of spiritual care or emotional support requires the same standards of consent as in any other workplace interaction.

SEX BASED HARASSMENT

Harassment on the ground of sex is also referred to as "sex-based harassment".

Harassment in this context means any unwelcome conduct of a demeaning nature by reason of the person's sex in circumstances in which a reasonable person would have anticipated the possibility that the person harassed would be humiliated, or intimidated.

Harassment on the grounds of someone's sex does not need to be sexual in nature to be unlawful. For example, harassment that is on the ground of sex may include sexist remarks, which, for example, imply that certain tasks are strictly 'men's work' or 'women's work'.

Sexual harassment and harassment on the ground of sex occurs in the workplace when it happens at the Church, at Church-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 and harassment on the ground of sex.

A single incident is enough to constitute sexual harassment or harassment on the ground of sex – it doesn't have to be repeated.

All incidents of sexual harassment or harassment on the ground of sex – no matter how large or small or who is involved – require Pastors to respond quickly and appropriately.

This policy requires all staff and volunteers to show respect to other people and their boundaries.

The Church will not tolerate or accept any form of sexual harassment or harassment on the ground of sex, in the church or in any church-related context such as conferences, work functions and business trips. All staff and volunteers are responsible for their own behaviour, and under the law may be held personally liable if they engage in sexual harassment or harassment on the ground of sex. An individual who causes, instructs, induces, aids, or permits someone else to engage in sexual harassment, or sex-based harassment can also be found to have engaged in unlawful conduct. The Church may also be vicariously liable for staff members or volunteers found to have engaged in any form of sexual harassment or harassment on the ground of sex.

Conduct that Subjects a Person to a Hostile Workplace Environment on the Ground of Sex

It is unlawful for a person to subject another person to an environment that is hostile on the ground of sex.

Such unlawful conduct is conduct which results in an intimidating, and humiliating environment for people of one sex, but does not necessarily need to be directed at a specific person. Conduct that could result in people of one sex feeling unwelcome or excluded by the general work environment includes displaying obscene or pornographic materials, general sexual banter or innuendo and inappropriate jokes.

Staff or volunteers can be personally liable for any such conduct and the Church may also be vicariously liable for the actions of staff or volunteers. The Church is committed to ensure that its workplace is not one which is hostile on the ground of sex.

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, harassment on the ground of sex, conduct that creates a hostile workplace environment on the ground of sex 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.

The Church has a zero-tolerance approach to victimisation.

Vilification

Vilification is where a person commits a public act which is reasonably likely to insult, humiliate or intimidate another person because of their race, sex, religion, sexuality, or sexual identity. Hatred or vilification due to an attribute protected under equal opportunity laws is unlawful.

The Church will not tolerate or accept any form of hatred or vilification due to a protected attribute of another person.

Any conduct that can possibly be observed by the public or any sort of communication either verbal or in writing to the public can be considered a public act. Workplaces can be public places.

The Church may be vicariously liable for staff members or volunteers found to have engaged in any form of unlawful hatred or vilification. Staff members or volunteers may also be sued personally or prosecuted criminally under Commonwealth or State criminal laws.

Conduct that may constitute vilification can include verbal or written statements or even be the reproduction or distribution of already published information. Examples include:

- Inappropriate material on the internet, including e-forums, blogs, social networking sites and video sharing sites;
- Inappropriate comments or images published in a publication such as a leaflet, flyer, internal message board or workplace intranet;
- Inappropriate speeches at public events, work functions or in the Church;
- Abusive comments in any public place, such as the Church, or any other place attended in connection with employment or the Church; or
- In some instances, the reproduction or distribution of already published information around the Church.

Confidentiality

It is unacceptable for staff or volunteers at the Church to talk with other staff members, contractors, volunteers, partners, congregation, visitors, or suppliers about any complaint of discrimination or harassment without the Church's express permission.

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

Decisions to be Based on Merit

All recruitment and job selection decisions at the Church will be based on merit – the skills and abilities of the candidate is 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

The Church strongly encourages any staff members or volunteers who believe they have been discriminated against, bullied, sexually harassed, vilified or victimised to take appropriate action by making a complaint in accordance with the Grievance Handling Policy.

Any staff member or volunteer who has witnessed any discrimination, bullying, sexual harassment, harassment on the ground of sex, conduct that creates a workplace environment that is hostile on the ground of sex, vilification or victimisation should report this to a Pastor or the Safety Contact Person, or raise a complaint in accordance with the Grievance Handling Policy.

Other Policies

Staff and volunteers are encouraged to read this policy in conjunction with other relevant Church policies, including:

- Bullying and Harassment Policy
- Discipline and Termination Policy
- Code of Conduct
- Grievance Handling Policy
- Work Health and Safety Policy

Raising Concerns

We encourage all staff and volunteers within the Church and our congregation to report any concerns they have about safety and wellbeing. We are committed to handling all concerns seriously, legally and in a child-focused way (if concerning children).

If you have any concerns about safety at the Church, we strongly encourage you to share your concern with one of our Pastors or the Safety Contact Person and fill in our [Reporting Concerns Form](#).

Policy Review Statement

This policy will be reviewed regularly as a part of the ongoing review and continuous improvement cycle of all Church policies and procedures.

If you have any feedback you would like to make about this policy, please email policies@bcoc.com.au.

Safety Contact Person

Name:	Karen Fletcher
Phone number:	0438 886 337
Email:	karenf@bcoc.com.au
Other contact details:	Church Office: 9702 1011 (Mondays to Fridays)

Applicable Legislation, References and Other Policies

Item	Description
<i>Work Health and Safety Act 2011 (Cth)</i>	Federal Legislative duties and responsibilities of organisations.
<i>Occupational Health and Safety Act 2004 (Vic)</i>	The <i>Occupational Health and Safety Act 2004 (Vic)</i> (OH&S Act) is the main workplace health and safety law in Victoria. Victorian OH&S Act , OH&S regulations as well as other relevant legislation .
<i>Fair Work Act 2009 (Cth)</i>	The Fair Work Act 2009 (Fair Work Act) and the Fair Work Regulations 2009 are the main legislation we deal with. They govern the employee and employer relationship in Australia.
<i>Sex Discrimination Act 1984 (Cth)</i>	The Sex Discrimination Act 1984 protects people from unfair treatment on the basis of their sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy and breastfeeding. It also protects workers with family responsibilities and makes sexual harassment against the law.
<i>Racial Discrimination Act 1975 (Cth)</i>	The Racial Discrimination Act 1975 promotes equality before the law for all people regardless of race, colour or national or ethnic origin. It is unlawful to discriminate against people on the basis of race, colour, descent or national or ethnic origin. Read more about racial discrimination .
<i>Disability Discrimination Act 1992 (Cth)</i>	This is a compilation of the <i>Disability Discrimination Act 1992</i> that shows the text of the law as amended and in force on 12 April 2018 (the compilation date).
<i>Age Discrimination Act 2004 (Cth)</i>	The Age Discrimination Act 2004 protects people from age discrimination in employment, the provision of goods and services, education and the administration of Commonwealth laws and programs.
<i>Australian Human Rights Commission Act 1986 (Cth)</i>	The Australian Human Rights Commission Act 1986 articulates the Australian Human Rights Commission role and responsibilities.
<i>BCOC Policies</i>	All Church policies can be obtained from the website link, www.berwickchurch.org.au/policies