

Maggie Beer Holdings Limited

Equal Employment Opportunity

Anti-Discrimination, Sexual  
Harassment and Bullying Policy

May 2022

**Equal Employment Opportunity  
Anti-Discrimination, Sexual Harassment and Bullying Policy  
Maggie Beer Holdings Limited ACN 092 817 171 (the Company) and its  
subsidiaries**

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## **1. Introduction**

- 1.1 The Company supports equal employment in the workplace and is also committed to building and nurturing a workplace that is free from discrimination, sexual harassment, victimisation, and bullying. It is important that all Workers share a responsibility for upholding professional standards of conduct and for building and nurturing a workplace where such unlawful conduct does not occur.
  - 1.2 This policy is intended to provide Workers with information to help the Company achieve its policy objectives by outlining expectations of behaviour and procedures for dealing with complaints.
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## **2. Definitions**

In this document, the following definitions apply:

**Worker(s)** means an employee, contractor, consultant, volunteer, or other worker engaged in any capacity by the Company including all Board members of the Company.

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## **3. Scope**

- 3.1. This policy is applicable to all Workers.
  - 3.2. Workers must always comply with this policy during work:
    - when representing or acting on behalf of the Company and at work related events and social functions;
    - during interactions between co-Workers; and
    - when Workers are dealing with customers, suppliers or third parties.
  - 3.3. Behaviour that is inconsistent with this policy will not be tolerated and will result in disciplinary action up to and including termination of employment or engagement.
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## **4. Equal Employment Opportunity**

- 4.1. It is the policy of the Company that all persons in the workplace be treated based on merit and according to their skills and abilities. This includes, but is not limited to, matters involving:
  - recruitment, selection, transfers, promotions, performance reviews, training and development, supervision and management of Workers, counselling, disciplinary procedures and termination of employment or engagements; and
  - remuneration practices and benefits.
- 4.2. A Worker's gender, marital status, pregnancy, parental or family responsibilities, race, age, physical or mental disability, sexual orientation, transgender, political or religious beliefs, social origin, trade union activity or inactivity or physical appearance will not form the basis of employment decisions, unless subject to a legislative exemption, or based on the inherent requirements of a particular role.

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## 5. Discrimination and Sexual Harassment

5.1. The Company believes that all Workers have a right to work in a productive environment in which unlawful discriminatory conduct or sexual harassment is not tolerated.

### What is unlawful discrimination?

5.2. Unlawful discrimination may occur when a Worker is treated, or proposed to be treated, less favourably than others because of an attribute protected by the law.

5.3. Discrimination does not have to be calculated or intentional to be unlawful. The intention of the person discriminating is irrelevant. Two types of unlawful discrimination can occur in the workplace:

- i. **Direct Discrimination** - this occurs when an individual treats another person less favourably because of an attribute protected by law.

*Example – An employee is passed over for promotion because they are pregnant.*

- ii. **Indirect Discrimination** - this occurs when an unreasonable requirement, condition or practice is imposed that has, or is likely to have, the effect of disadvantaging people with an attribute protected by law.

*Example – A policy that Managers must work full time, may indirectly discriminate against Workers with caring responsibilities who can only work part time.*

### Attributes protected by law include:

- age
- employment activity
- disability
- lawful sexual activity
- parental status or status as a carer
- political belief or activity
- race
- sex
- an expunged homosexual conviction
- breastfeeding
- gender identity
- industrial activity
- marital status
- physical features
- pregnancy
- religious belief or activity
- sexual orientation
- personal association (whether as a relative or otherwise) with a person identified by reference to any of the above attributes.

5.4. It is unlawful to discriminate on the basis that a person is perceived to have one of the above attributes, even if they do not actually have that attribute. For example, it is illegal to discriminate against a person because you think that the person has a disability, even if they do not in fact have the disability.

### What is harassment?

5.5. Federal legislation also prohibits:

- i. harassment in the workplace based on or linked to a person's disability or the disability of an associate; and

- ii. offensive behaviour based on racial hatred, which is defined as something done in public that offends, insults, or humiliates a person or group of people because of their race, colour or national or ethnic origin.

Harassment can be a single incident, or repeated behaviour, and can occur even if the behaviour is not intended to offend. Silence does not mean that the behaviour is acceptable to the other person.

### **What is sexual harassment?**

- 5.6. Sexual harassment is any unwelcome conduct of a sexual nature which a reasonable person would find offensive, humiliating or intimidating. It may be physical, verbal or written.
- 5.7. Certain conduct that may be tolerated socially could constitute sexual harassment in the workplace when it is unwelcome. Just because someone does not object to inappropriate behaviour at the time, does not mean that they are consenting to the behaviour.
- 5.8. A single incident is enough to constitute sexual harassment – it doesn't have to be repeated.
- 5.9. The Company is committed to maintaining a working environment which is free from sexual harassment. The Company regards sexual harassment as a serious issue and aims to treat any complaints in a sensitive, fair, and confidential manner (where possible).

### **Examples of sexual harassment**

- 5.10. Sexual harassment may include, but is not limited to:
  - displaying offensive screen savers, photos, calendars, or objects;
  - sexually suggestive comments or jokes;
  - intrusive enquiries or comments about another Worker's private life, their sexuality or physical appearance;
  - persistent requests from a colleague to go for a drink where such requests have been consistently declined;
  - staring or leering at a person or parts of their body;
  - sexually offensive telephone calls, or sending sexually explicit text messages or emails;
  - requests for, or expectations of, sexual activity under threat, or in exchange for favours or promises of preferential treatment;
  - deliberate or unnecessary physical contact, such as patting, pinching, fondling, deliberate brushing up against another body, or attempts at kissing;
  - public displays of nudity - commonly referred to as flashing;
  - sexual violence at the most extreme, sexual assault and forced attempts at sexual intercourse, which may also be an offence under criminal law.

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## **6. Victimization**

- 6.1. Victimization occurs when a person is subjected to, or threatened to be subjected 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 victimization.
- 6.2. It is also victimization to threaten someone (such as a witness) who may be involved in investigating an equal opportunity concern or complaint.
- 6.3. Victimization is unlawful and may lead to disciplinary action including termination of employment or engagement.

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## 7. Bullying

- 7.1. Bullying is prohibited by the Fair Work Act 2009 (Cth). The Act defines bullying as 'repeated unreasonable behaviour towards another person or group which creates a risk to health and safety.'

For the purposes of this section, the following definitions apply:

**Repeated behaviour** refers to the persistent nature of the behaviour and can refer to a range of behaviours over time.

**Unreasonable behaviour** means behaviour that a reasonable person, having regard to the circumstances, may consider unreasonable, for example because the behaviour is victimising, humiliating, undermining, or threatening.

- 7.2. Bullying may be direct or indirect and may include, but is not limited to:

- putting new staff through "initiation rituals";
- verbal abuse, threats, sarcasm, or other forms of demeaning or intimidating language or communication;
- constant unwarranted negative criticism or "nit-picking";
- threatening to take unjustified action against a person unless they comply with unreasonable requests;
- placing unreasonable work demands on people, such as overloading them with work;
- deliberately isolating a Worker by refusing to talk to or interact with them.

- 7.3. In Victoria, serious bullying may be a criminal offence under what is known as "Brodie's Law". An employee that is found to have engaged in serious bullying, including physical, psychological, verbal, or cyber bullying may be prosecuted under the *Crimes Act 1958* and liable for up to 10 years imprisonment.

### What is not bullying?

- 7.4. Many things that happen at work are generally not considered to be bullying, although some experiences can be uncomfortable for those involved. Differences of opinion, performance management, conflicts and personality clashes can happen in any workplace, but do not necessarily amount to bullying.

- 7.5. Reasonable management of Workers carried out in a reasonable manner is not bullying. Managers have the right, and should, manage their staff. This includes directing the way in which work is performed, undertaking performance reviews, and providing feedback (even if negative) and disciplining and counselling staff. Examples of reasonable management action include:

- setting reasonable performance goals, standards, and deadlines in consultation with Workers and after considering their respective skills and experience;
- allocating work in a transparent way;
- fairly rostering and allocating working hours;
- transferring a Worker for legitimate and explained operational reasons;
- deciding not to select a Worker for promotion, following a fair and documented process;
- informing a Worker about unsatisfactory work performance in a constructive way and in accordance with any workplace policies or agreements;
- informing a Worker about inappropriate behaviour in an objective and confidential way;
- enforcing company policies and guidelines and other statutory requirements;
- implementing organisational changes or restructuring, and
- performance management processes.

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## 8. Impact of unlawful conduct

- 8.1. Discrimination, harassment, victimisation, and bullying can be harmful for the persons who experience it and those who witness it. Everyone will react differently to it, which may include any combination of the following;
- distress, anxiety, panic attacks or sleep disturbances;
  - loss of self-esteem and feelings of isolation;
  - reduced work performance;
  - physical illness, such as muscular tension, headaches, and digestive problems.
- 8.2. The perpetrator of the conduct can be subject to legal proceedings if they engage in the conduct described in this policy. The Company will not indemnify a Worker found to have acted in breach of anti-discrimination or human rights legislation.

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## 9. Responsibilities

- 9.1. All Workers have a responsibility to:
- comply with this policy;
  - monitor the working environment to ensure that acceptable standards of conduct are always observed;
  - model appropriate behaviour;
  - ensure that all employment, advancement, and training decisions are consistent with this policy;
  - seek appropriate advice and assistance when dealing with formal or informal complaints; and
  - when appropriate, deal with sensitive information in a confidential manner.

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## 10. What if you do have a complaint

- 10.1. Workers who become aware of a breach or suspected breach of this policy are required to discuss the matter with their manager on a confidential basis.
- 10.2. A Worker who believes they are the victim of discrimination, bullying or sexual harassment may deal with the matter:
- Informally** - by confronting the person with whom they are aggrieved; and/or
- Formally** - by referring the matter to the Company in accordance with our Grievance Policy.
- 10.3. If you are unsure of what to do, contact your manager or People, Culture and Performance to discuss your options or one of the support agencies at the end of this policy.
- 10.4. Should the Worker elect to raise a formal grievance, the Company may carry out an investigation, in its absolute discretion. Alternatively, the Company may take whatever action it deems necessary to attempt to resolve the Worker's complaint.
- 10.5. If, after an investigation by the Company, a Worker's complaint or statement is found to be false and malicious, disciplinary action may be taken against the Worker.
- 10.6. If a Worker's complaint is substantiated, the Company may take disciplinary action against the perpetrator. Depending upon the seriousness of the breach of this policy, such action may include termination of employment or engagement.

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## **11. Confidentiality**

- 11.1. In instances of any alleged policy breach, confidentiality is important to protect all people concerned. All Workers are required to observe confidentiality of complaints of which they become aware. Should a Worker be found to be inappropriately discussing a complaint, they may be disciplined accordingly.
- 11.2. Management, or others involved in managing a complaint or investigation, will endeavour to maintain confidentiality as far as possible. However, it may be necessary to speak with other Workers to determine what happened to resolve the complaint.

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## **12. Breach of this Policy**

Any Worker who is found to have breached this policy may be subject to disciplinary action, up to and including termination of employment or engagement.

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## **13. Variations and other policies**

- 13.1. This policy is to be read in conjunction with the Company's other policies and procedures that it may have in place and amended from time to time.
- 13.2. This policy is not incorporated into and does not form part of any employee's contract of employment. Nor does it form part of any other Worker's contract for service. the Company may vary, replace, or terminate this policy from time to time.

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### **Relevant MBH Policies**

Grievance Policy

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### **Federal Legislation**

Disability Discrimination Act 1992

Equal Opportunity for Women in the Workplace Act 1999

Human Rights and Equal Opportunity Commission Act 1986

Privacy Act 1988

Racial Discrimination Act 1975

Sex Discrimination Act 1984

Sex Discrimination and Fair Work (Respect at Work) Amendment Bill 2021

Workplace Relations Act (Cth) 1996

Whistleblower Protections Act

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### **State Legislation**

Equal Opportunity Act 1984 (SA)

Racial Vilification Act 1996 (SA)

## Support Agencies

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The Victorian Equal Opportunity and Human Rights Commission is responsible for addressing complaints of discrimination, sexual harassment, and racial and religious vilification.

([www.humanrightscommission.vic.gov.au](http://www.humanrightscommission.vic.gov.au))

### **MBH Employee Assistance Program** LifeWorks by Morneau Shepell

The Employee Assistance Program allows you or your immediate family members to confidentially discuss any work or personal issues.

Sessions with qualified psychologists and social workers can take place face to face or over the phone.

Phone            1300 361 008 (Aust)

### **Beyondblue**

Beyondblue provides people with access to information for depression and anxiety related matters. They can also make referrals to other relevant services.

Phone            1300 224 636

Website        [www.beyondblue.org.au](http://www.beyondblue.org.au)