

## 4 Up Skilling Pty Ltd

### EQUAL OPPORTUNITY Policy & Procedure

#### Objective

4 Up Skilling Pty Ltd is committed to promoting equal opportunity in its education and employment and does not accept any form of discrimination. This ethos is promoted in its principles throughout the organisation.

#### Requirement

4 Up Skilling Pty Ltd uses a systematic and continuous improvement approach to this policy and will monitor and develop in line with feedback from management, industry, staff and students.

#### Scope

This policy applies to all persons employed by or contracted to 4 Up Skilling Pty Ltd and students enrolled (and prospective students) at 4 Up Skilling Pty Ltd. It does not apply to members of staff whilst on industry placement (staff updating industry currency) however we will support the staff member and work with the industry organisation to prevent further occurrences.

#### Responsible parties

The CEO is responsible for the control and issue of this procedure (this may be delegated).

All management are responsible to ensure they are well educated in the relevant legislation and that the organisation is free from any forms of discrimination as covered in this policy and that equal opportunity is promoted.

All staff and students are responsible for ensuring that equal opportunity principles are respected and adhered to.

#### Principles

4 Up Skilling Pty Ltd is an Equal Opportunity employer. 4 Up Skilling Pty Ltd has in place corporate policies, in accordance with government legislation, which ensure that employees, students and consultants (“workplace participants”) are not discriminated against.

All employees, students and consultants are made aware of their obligations under the relevant Commonwealth and State Anti-Discrimination legislation.

4 Up Skilling Pty Ltd is committed to preventing unlawful discrimination, sexual harassment, victimisation and vilification in its workplaces. It is also committed to preventing bullying.

Each of 4 Up Skilling Pty Ltd's workplace participants is required to ensure that they do not unlawfully discriminate, harass, victimise, vilify or bully any other workplace participant.

For the purposes of this policy, a *workplace participant* is:

- All employees of 4 Up Skilling Pty Ltd (including non-permanents)
- Contractors to 4 Up Skilling Pty Ltd
- Students
- Applicants for jobs with 4 Up Skilling Pty Ltd; and
- People who work in the same workplace but for a different employer.

A failure to comply with this Equal Opportunity Policy may result in disciplinary action up to and including dismissal.

It is the responsibility of all 4 Up Skilling Pty Ltd management and staff to treat all workplace participants and equipment with courtesy and respect and to behave in accordance with this policy.

4 Up Skilling Pty Ltd supports the concept of equal opportunity in employment and is committed to a program, which will ensure compliance with both the letter and the spirit of the relevant legislation.

4 Up Skilling Pty Ltd believes all workplace participants should be treated with respect and fairness and that everyone will be afforded natural justice.

4 Up Skilling Pty Ltd values and respects the diversity of its workforce. 4 Up Skilling Pty Ltd believes that diversity creates a competitive advantage and enhances employee participation.

### **Policy Objectives**

The objectives of this Equal Opportunity Policy are to:

- Identify and eliminate any unlawful direct, indirect, and / or systematic discrimination from its organisation
- Ensure a work / learning environment free from discrimination, harassment, victimisation and vilification for all workplace participants
- Ensure that bullying does not occur

- Provide a procedure for dealing with complaints of discrimination, harassment, victimisation, vilification or bullying if they occur
- Provide information to all workplace participants in relation to their rights and responsibilities concerning discrimination, harassment, victimisation and vilification in the workplace
- Ensure that employment is based on the principle of merit and that employees are not treated less favourably on the basis of an irrelevant characteristic during the course of employment; and
- Take appropriate action to prevent the occurrence of unlawful discrimination, harassment, sexual harassment, victimisation, bullying by the provision of this and other procedures including complaints and appeals policy and code of practice and via conducting educative programs for staff and students
- Continuing to develop our policies in line with feedback from management, industry, staff and students.

### **What Situations are covered by this Policy?**

This policy aims to prevent discrimination, harassment, victimisation and vilification in the workplace. This can occur:

- During recruitment
- In the course of study
- In the course of employment at any location
- At work related functions (e.g. Christmas party)
- In the termination of employment

Furthermore, when using labour hire or temporary staff 4 Up Skilling Pty Ltd will request that the agencies being used apply non-discriminatory screening and interviewing processes to ensure selection is from a diverse pool of candidates. This ensures 4 Up Skilling Pty Ltd employs the best person for the position.

### **What is Unlawful Discrimination?**

Discrimination is essentially any practice that makes distinctions between individuals or groups, so as to disadvantage some and advantage others. Federal, State and Territory legislation prohibits both direct and indirect discrimination on various grounds.

**Direct discrimination** is when a person, or group of people, receive less favourable treatment than others on the basis of:

- Personal attributes
  - Age
  - Race

- Clothing
- Sex
- Personal characteristics, particular to people with one of the above mentioned attributes

Direct discrimination is any action, which specifically excludes a person, or a group of people from a benefit or opportunity, or significantly reduces their chances of obtaining it because a personal characteristic, irrelevant to the situation, is applied as a barrier. That is, a person, (or group of people) is treated less favourably because they possess a characteristic listed as a reason for discrimination, e.g. age, sex, race, disability or marital status.

**Indirect discrimination** is the imposition of a condition on a person, or group of people, which, on face value appears not to be discriminatory, however it has an adverse effect on a particular group of people.

A person indirectly discriminates against another person or group when:

- They are required to comply with a particular condition which a substantially higher proportion of people cannot comply
- The condition is not reasonable having regard to all circumstances

Indirect discrimination occurs when an action, policy or practice appears to treat people equally, but actually disadvantages a person or group of people, and those people are disadvantaged because of their sex or their race or one of the other prohibited grounds of discrimination.

Indirect discrimination occurs where there is a requirement, rule, policy, practice or procedure that is the same for everyone but has an unequal effect on particular groups. This type of requirement is likely to be indirect discrimination unless the requirement is reasonable in all the circumstances.

4 Up Skilling Pty Ltd adheres to Federal, State and Territory legislation, which prohibits discrimination in employment on the following grounds:

- Sex
- Religion and/or Political opinion
- Medical record
- Irrelevant criminal record
- Creed
- Mental, intellectual or psychiatric impairment
- Family responsibilities and status as a parent or carer
- Disability
- Age

- Sexuality/sexual orientation
- Physical impairment, *Disability Discrimination Act 1992 (D.D.A.)*
- Pregnancy or potential pregnancy
- Race, nationality or ethnic origin
- Marital status
- Transgender or gender identity
- Trade union activity
- Physical features
- Breast feeding in the work place
- Lawful sexual activity
- Association with a person who has such characteristics

Discrimination on any of these grounds is prohibited in all areas of employment, including:

- Recruitment
- Terms and conditions of employment
- Access to promotion, transfer or training or other employment benefits
- Unfavourable treatment
- Appropriate workplace behaviour
- Termination of employment
- Commission agents
- Contract workers; and
- Casual and part-time workers

4 Up Skilling Pty Ltd aims to provide equal opportunity for all workplace participants and to comply with all anti-discrimination laws. Discrimination by one workplace participant against another will not be tolerated. A workplace participant who discriminates against another may be subject to disciplinary action up to and including dismissal. Discrimination can occur either directly or indirectly.

### **Definition of Harassment**

Harassment is persecution or bullying based on issues such as impairment, gender, marital status, parental status, pregnancy, sex, sexual preference or religion.

### **What is Sexual Harassment?**

Sexual Harassment is defined as any uninvited, unwelcome behaviour of a sexual nature involving written, visual or physical affront against another person. Sexual harassment may include:

- Requests for sexual favours
- Leering, unwanted physical contact, wolf-whistles, obscene gestures or noises;
- Persistent requests for a social "date"

- Sending or displaying to other workplace participants pornographic pictures or jokes by email
- Comments or questions about a person's sex life
- Offensive posters, pictures or graffiti
- Sexual jokes, sexually suggestive telephone calls

Sexual harassment within the work place or training site will not be tolerated.

Any staff who sexually harass another person will be subject to disciplinary action which may include dismissal and further legal action.

Any student who sexually harasses another person will be subject to disciplinary action which may include cancellation of enrolment without any refund and may also include further legal action.

### **What is Victimisation?**

Victimisation is the term used to describe any paybacks, retribution or intimidation associated with a discrimination or harassment complaint. Victimisation refers not only to intimidation of complainants or potential complaints, but also to the alleged harasser or discriminator, witnesses, supporters and those resolving or investigating any complaints.

4 Up Skilling Pty Ltd will take all reasonable steps to ensure victimisation does not occur. Any staff (staff includes contractors) found guilty of victimisation will be subject to disciplinary action which may include dismissal and further legal action.

Any student found guilty of victimisation will be subject to disciplinary action which may include cancellation of enrolment without any refund and may also include further legal action.

### **What is Vilification?**

Vilification is a public act which incites, encourages or urges others to hate, have serious contempt for, or severely ridicule, a person, or group of people because they are (or thought to be) members of a particular group. Acceptable forms of lawful free speech will not include any form of vilification.

Any staff that vilifies another workplace participant will be subject to disciplinary action which may include dismissal and further legal action.

Any student that vilifies another workplace participant will be subject to disciplinary action which may include cancellation of enrolment without any refund and may also include further legal action.

### **Racism**

4 Up Skilling Pty Ltd is firmly committed to providing a working teaching and learning environment that is free from racism. Racism not only denies a person's fundamental

human right to respect, it reduces their opportunity to gain a fair share of society's valued resources such as education and employment.

4 Up Skilling Pty Ltd recognises that the achievement of equal employment opportunities and equal educational outcomes is dependent on the provision of a discrimination and harassment free environment.

4 Up Skilling Pty Ltd expresses unconditional rejection of racist behaviour and its commitment to eliminate racism in its organisational structure through the provision of training programs that are equitable, accessible and culturally inclusive.

Any staff that commits a racist act against another workplace participant will be subject to disciplinary action which may include dismissal and further legal action.

Any student that commits a racist act against another workplace participant will be subject to disciplinary action which may include cancellation of enrolment without any refund and may also include further legal action.

### **Bullying**

Workplace participants are expected to treat each other with dignity and respect. 4 Up Skilling Pty Ltd values individual differences and expects that all workplace participants will work together.

Bullying is inappropriate behaviour aimed to demean and humiliate workplace participants, either as individuals or as a group. Examples of bullying behaviour include:

- Manipulation
- Intimidation
- Belittling remarks
- Persistent criticisms, nit picking or fault finding
- Verbal and/or physical abuse
- Isolation from colleagues
- Withholding information or
- Setting unrealistic targets.

Although bullying may not be specifically in breach of anti-discrimination laws, a workplace participant who bullies a fellow workplace participant may be subject to disciplinary action up to and including dismissal. Students who bully other students or staff will be subject to disciplinary action, which may include cancellation of enrolment without any refund and may also include further legal action.

### **Why is 4 Up Skilling Pty Ltd Involved?**

Anti-discrimination laws and vilification laws place obligations on 4 Up Skilling Pty Ltd to ensure that it prevents:

- Discrimination
- Harassment
- Victimization; and
- Vilification

Primarily, the person who discriminates, harasses, victimises or vilifies is liable for their actions. However, 4 Up Skilling Pty Ltd may be held vicariously liable for the actions of its employees unless it has taken “all reasonable steps” to prevent the discrimination, harassment, victimisation or vilification.

### **Relevant Legislation**

4 Up Skilling Pty Ltd and its workplace participants are subject in Queensland , to the following pieces of legislation applying to harassment, discrimination and equal opportunity in the workplace.

- Age Discrimination Act 2004
- Racial Discrimination Act 1975
- Fair Work Act 2009
- Sex Discrimination Act 1984
- Australian Human Rights Commission Act 1986
- Disability Discrimination Act 1992
- Human Rights and Equal Opportunity Commission Act 1986
- Equal Opportunity for Women in the Workplace Act 1999
- Anti- Discrimination Act 1997
- Racial Hatred Amendment 1995
- Workplace Relations Act

### **The Disability Discrimination Act 1992**

The definition of a disability under the Disability Discrimination Act is broad and includes physical, intellectual, psychiatric, sensory, learning, neurological, physical disfigurement and the presence in the body of disease causing organisms.

The Disability Discrimination Act aims to eliminate, as far as possible discrimination on the grounds of a disability in areas of education, access to public premises, and employment.

All staff employed by 4 Up Skilling Pty Ltd has a responsibility to ensure that students do not experience discrimination.

Under the DDA, training providers are obliged to:

- Ensure learners with disabilities are not unlawfully discriminated against when seeking to enrol in a course of study

- Negotiate and implement any adjustments necessary to enable learners with disabilities to participate in a course to the same extent as other learners, and
- Ensure assessment procedures and methods are adapted to enable learners with disabilities to demonstrate the knowledge, skills or competencies being assessed.

### **The Disability Standards for Education 2003**

The Disability Standards for Education 2003 were formulated under the DDA to clarify and elaborate on the legal obligation in relation to education in relation to enrolment and participation in education, training and educational services.

### **Reasonable Adjustment**

4 Up Skilling Pty Ltd will make reasonable adjustments to ensure equal opportunity for students with disabilities. These adjustments will not provide students with a competitive advantage, rather will minimise any disadvantage experienced by students with a disability.

**Here are a few examples of how reasonable adjustment in training and assessment might take place:**

#### **Hearing impairment:**

- Information is presented visually and
- Interpreted response via sign language

#### **Vision:**

- Font size is increased
- Voice recognition software

### **Process to make a complaint**

**For students:** follow the Complaints, Concerns and Appeals Policy.

#### **The formal process will involve:**

1. confidentiality stressed to all parties
2. the responsible manager taking written notes of the incident
3. the responsible manager talking with the person you have complained about
4. the responsible manager talking with any witnesses
5. all interviews will be separate and transcript notes will be taken
6. the responsible manager will then review evidence
7. the responsible manager will then meet with the complainant (you) and explain the findings including what the other person has stated and what should be done to straighten out the problem
8. the complainant will then state what action they want taken

**Outcomes may take the form of:**

- retraining of relevant staff
- change of department
- monitoring of staff members
- written apology
- written warning
- counselling
- disciplinary action
- dismissal

**Associated documents:**

Code of Practice

Management Review Report

Corrective action record

Complaints, Concerns and Appeals Policy

Policy developed by: Quality Manager

Responsible Manager: CEO

Policy endorsed by: CEO

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