



## STAFF DISCRIMINATION AND HARASSMENT POLICY

<b>Authorised By:</b>	Board of Governors	Revision: 1.10
<b>Last Amended Date:</b>	Revision Date: 04 Jan 2022	
<b>Review Due Date:</b>	Next Review: 04 Apr 2024	
<b>Related Documents:</b>	<a href="#">Staff Recruitment, Selection and Appointment Policy</a>	
<b>Responsible Officer:</b>	Registrar	
<b>Review:</b>	Board of Governors	

Any person who requires assistance in understanding any aspect of this document should contact the Responsible Officer

### 1. Overview

Tabor believes that all employees must be able to work in an environment free of discrimination, victimisation, harassment, workplace bullying, occupational violence and vilification. It considers that these behaviours are unacceptable and they are not to be tolerated under any circumstances.

This policy and associated procedures provide a framework to assist in resolving grievances of staff in regards to the above and is founded on the principles of natural justice and procedural fairness, and employs the philosophy of using education and conciliation as the principal approach to the prevention of discrimination and harassment in all forms.

The attached procedures (see Staff Complaints Processes) are designed to assist in the resolution of grievances by:

- providing a consistent and transparent process for managing grievances
- encouraging complainants to lodge grievances as soon as practicable after the alleged incident occurs
- ensuring every grievance is clearly defined
- investigating and dealing with grievances promptly

### 2. Scope and Applications

This policy applies to all employees of Tabor, whether they are full time, part time, casual, adjunct, contract employees, or volunteer staff.

### 3. Policy Principles

3.1. Tabor is committed to ensuring that all staff members are treated fairly and without discrimination.

3.2. The underlying principles of this policy are:

- Procedural fairness: complaints and grievances are handled according to the principles of procedural fairness.
- Accessibility, transparency, timely manner, accountability: the processes for handling complaints must be easily accessible, transparent in operation and outcomes, and capable of resolving complaints in a timely manner with clear deadlines for each stage of resolution. Reasons for each decision must be provided to all parties.
- Confidentiality: in keeping with Tabor's [Privacy Policy](#) all information provided in the complaints process is strictly confidential and can be used only for the purposes for which it was collected, unless:
  - The express consent of the individual(s) concerned is obtained; or
  - Tabor has reasonable ground for believing that the use of the information will reduce a threat to life or health of any person; or
  - The use is specifically required by law.
- Equity: complaints are dealt with in an equitable and culturally sensitive manner, and are judged strictly on their merits.
- Support: complainants and respondents are entitled to have a support person present at any stage of the grievance process

## 4. Procedures

### 4.1. Roles and Relationships

- 4.1.1. All staff members and volunteers of Tabor are responsible for ensuring that they collaborate in upholding a discrimination and harassment-free workplace.
- 4.1.2. Managers and supervisors are accountable for the effective function of their workplace. This includes:
  - Ensuring that staff understand their responsibilities by providing professional development in the relevant policies and procedures
  - Taking all reasonable steps to ensure that unlawful discrimination / sexual harassment / workplace bullying does not occur
- 4.1.3. It is the responsibility of the HR Manager to:
  - Develop and implement a clear policy and procedure to facilitate the elimination and prevention of unlawful discrimination / sexual harassment / workplace bullying.
  - Develop a workplace training program regarding discrimination / sexual harassment / workplace bullying.
  - Maintain confidential records of unlawful discrimination / sexual harassment / workplace bullying grievances lodged in accordance with these procedures.
  - Monitor and review the implementation of these procedures
- 4.1.4. The principal function of the contact officer is to act as a first point of contact for advice or referral as necessary. It is not their role to investigate or conciliate unlawful discrimination / sexual harassment / workplace bullying grievances.
  - Contact officers must maintain appropriate confidentiality with respect to information disclosed to them regarding allegations of unlawful discrimination / sexual harassment / workplace bullying.
  - In the event that a contact officer receives an allegation of unlawful discrimination / sexual harassment / workplace bullying the officer will provide advice on the operation of these procedures and explain options for resolving the grievance.
  - The contact officer may act in an ongoing supporting role in the resolution of the grievance if requested to do so by the complainant. Support provided by a contact officer may involve:

- Assisting the person to work through the advantages and disadvantages of different options in a sensitive and confidential manner
  - Advising and assisting the person to personally resolve the problem
  - Being present, if asked, when the complainant approaches the respondent about the behaviour that has given rise to the grievance
  - Being prepared to support the complainant if the issue is progressed beyond the informal advice stage
  - The contact officer has the right to withdraw as support person if there is a conflict of interest.
- 4.1.5. See the Staff Complaints Processes for detailed advice regarding the steps available to a complainant and the processes associated with investigating and resolving the complaint,

## **5. Definitions**

See [Global Definitions](#)

## **6. Communication / Training**

6.1. The HR Manager is responsible for communication of and training in this policy.

## STAFF COMPLAINTS PROCESSES

This procedure explains what to do if you have a concern or complaint about, harassment, discrimination, vilification, victimisation or workplace bullying. All complaints will be handled sensitively and in a timely manner.

### 1. Steps available to complainants:

- 1.1. If you can and if it is appropriate, try to resolve the problem yourself with the person or people involved. You may find that they didn't mean to hurt or offend you.
- 1.2. You may also consider writing a confidential letter to the respondent, explaining the negative effect of the behaviour and requesting the behaviour to stop.
- 1.3. Talk to a Contact Officer, your manager or the HR Manager to obtain advice on other informal methods for resolving the problem. This may include informal conciliation.
- 1.4. Make a formal complaint. This is a complaint in writing to the Vice President Operations (or President if it is not appropriate to address the complaint to the Vice President Operations). A formal complaint will lead to an investigation. You will need to provide exact details of your allegations.
- 1.5. Grievances made under these procedures should be made as soon as possible but not later than 12 months after the alleged event(s) occurred.
- 1.6. What to do if you want to withdraw or stop the complaint:
  - The complainant can ask the person who is investigating the matter to stop doing so at any time. Usually, this will be the end of the matter.
  - However, if the person investigating thinks that the matter is so serious that someone's health or safety is at risk (either the complainant's or someone else's), they will have to talk confidentially with the Vice President Operations or President. This is important, because Tabor does not want anyone to be at risk in the workplace, and has a legal obligation to ensure this. The Vice President Operations may then talk to complainant about what to do next.

### 2. The investigation process:

- 2.1. The first interview with the complainant:
  - The complainant will be advised that Tabor views complaints seriously and that the complaint will be investigated and a resolution sought in accordance with the principles set down in Section 3 of the Discrimination and Harassment Grievance Policy (Staff).
  - Get full information from the complainant about the complaint and how they would like to see it resolved.
  - Explain how the complaint procedure works – including what will be done to protect them from victimisation, and how everyone, including them must now keep the complaint confidential.
- 2.2. The first interview with the respondent
  - The respondent will be advised of Tabor's procedure in relation to grievances.
  - The interview will be held wherever practical within one week of the interview with the complainant.
  - The information (complaint) will be then put to the respondent, and the respondent's response will be sought.
  - The respondent will be advised that they must not victimise or harass the complainant, or any witnesses, in any way.
- 2.3. Seeking Resolution

Wherever practical, within one week of interviewing the person / people about which the complaint has been made, and no later than four weeks from the date of the first complaint, the person investigating the complaint will:

  - Determine whether they have enough information to know if the matter(s) alleged in the complaint did or did not happen.

- Work out whether the matter(s) alleged in the complaint are sufficiently serious to warrant disciplinary action.
  - If they do not have enough information and the matter is serious, they may need to speak to witnesses. This will be done very carefully, so as not to breach confidentiality.
  - Decide how the complaint should be resolved, and let everyone involved know. They may do this in the following way:
    - Attempt to mediate between the people in dispute if the complaint is of a non-disciplinary or minor disciplinary nature, and the main facts are not in dispute. This means that they will help the complainant and the respondent come to a mutually satisfactory agreement about how the complaint should be resolved.
- 2.3.1. When the complaint involves an allegation of a non-disciplinary or minor disciplinary nature, and the main facts are in dispute. The person investigating will:
- Tell the complainant and the respondent about what might have happened if the complaint had been proved one way or the other.
  - Warn the complainant and the respondent about the disciplinary consequences of any victimisation or breaches of confidentiality.
  - Tell the complainant and the respondent involved about the right to appeal.
  - Consider whether there needs to be staff education or training in particular policies or procedures.
  - Monitor developments.
  - Monitor the situation to make sure there are no further repercussions.
- 2.3.2. When the complaint involves an allegation of a more serious nature. The person investigating will:
- Work out whether, on the 'balance of probability', it did or did not happen. They will then make a recommendation to the HR Manager or President about how the complaint should be resolved. This will usually involve recommending a disciplinary measure against one or more employees. Discipline could range from a verbal apology for a less serious incident, through to dismissal for a very serious incident.
  - Consider if there is a need to use a mediator to help everyone readjust to working effectively together.
  - Write a confidential report for the HR Managers' files.
  - Monitor the outcome to make sure there are no further unfair repercussions.

### **3. How complaints may be resolved?**

3.1. Complaints may be resolved in a variety of ways:

3.2. Agreement:

- As explained above, many complaints can be settled by agreement between the people involved.
- Where there is a joint agreement, no records or notes will go on anyone's personnel file.

3.3. Not enough evidence to act:

If there is not enough evidence to decide whether or not the matter alleged happened, no disciplinary action will be taken. Instead it may be decided to:

- Tell those involved that there is not enough proof to act against one or the other.
- Ensure employees understand what constitutes unacceptable behaviour.
- Consider wider staff education or training.
- Keep a closer watch on the people involved, and regularly follow up with the complainant.

Either of the parties involved in the complaint has the right to ask for a review. No records or notes will go on anyone's personnel file.

3.4. Complaint Substantiated:

If the person who is investigating the complaint decides that there has been a breach of one of our policies or procedures, they will make a written recommendation to the HR Manager or President about what sort of disciplinary action they think should happen – and to whom.

#### **4. Documentation**

- 4.1. No records or notes will go on an employee file unless that employee has been found to be in breach of this policy, and subject to disciplinary action.
- 4.2. Investigating Officer  
The investigating Officer will write a confidential file note summarising the discussions and the action agreed on.
- 4.3. Confidential Complaint Filing System  
This report will be filed in a confidential complaint filing system within the Human Resources Department.
- 4.4. Access  
Only the relevant authorised staff will have access to this documentation, and only when necessary, for example, in relation to an internal review or external legal challenge related to the complaint.

#### **5. Disciplinary Action**

- 5.1. If the person handling the complaint decides that there has been a breach of this policy and / or the Law, they will recommend disciplinary action against the person or persons responsible for this breach.
- 5.2. If a complaint is proved vexatious and malicious (for example, it consists of lies), disciplinary action may be taken. Making untrue allegations about someone else could also lead to legal action for defamation (damage to reputation).
- 5.3. Level of disciplinary action  
The level of discipline will depend on:
  - The seriousness of the breach
  - Whether it was done intentionally or maliciously
  - Whether there have been previous formal warnings about this type of breach given to the person / people involved
  - Where there are any mitigating circumstances that mean disciplinary action should not be taken or serious disciplinary action should not be taken.
- 5.4. Range of disciplinary action  
Discipline could involve one or more of the following:
  - A written apology
  - Counselling / training
  - An official written warning
  - Demotion
  - Dismissal

An employee who is subject to disciplinary action, from the level of an official warning upwards, will have a record of the complaint and the resulting disciplinary action placed on their personal file. A record will also be kept in the Human Resources Departments files.

- 6. Will I be told if the other person / people is / are disciplined?
  - 6.1. If as a result of a matter raised, someone is disciplined, the person sorting out the complaint will inform the complainant that disciplinary action has been imposed and against whom.
  - 6.2. However, they will not necessarily tell precisely what type of disciplinary action has been imposed because it might be a breach of confidentiality. For example, the disciplinary action may have been more

or less severe than might be expected due to previous proven allegations against them, or due to mitigating circumstances.

## **7. Appeal Process**

7.1. If anyone involved with the complaint (complainant, respondent, or witnesses) are unhappy with the way the complaint has been resolved, then they can ask either the Vice President Operations or the President to review the decision.

## **8. Who else can help?**

8.1. At any time anyone involved in a complaint can get advice from a range of sources.

- Confidential support and information is available from any of the contact officers at any time during the complaint handling process. This is available to the complainant and the respondent. However, the same contact officer will not be able to assist both parties involved in the complaint.
- A complainant has the right to contact an external agency for advice or help at any stage of the procedure including if they are unhappy with the way the complaint has been resolved. For further information contact the Equal Opportunity Commission, the Commonwealth Human Rights and Equal Opportunity Commission or the State or Federal Industrial Relations Commission