



EQUAL OPPORTUNITY AND DIVERSITY POLICY

1. POLICY STATEMENT

WA Health is committed to equal opportunity and diversity and promotes a work environment that is free from discrimination and harassment, and where individuals are treated with fairness, respect, equality and dignity.

WA Health recognises the need for an open and inclusive workplace culture where diversity is valued and the social and cultural backgrounds of all employees are respected. Diversity can contribute to the creation of a productive environment in which the talents of staff are utilised and organisational goals are met. A diverse workforce can broaden workplace knowledge and experience, enhance service delivery and generate new ideas and insights.

WA Health is committed to achieving the objectives of Part IX of the *Equal Opportunity Act 1984 (EO Act)* which are:

- to eliminate and ensure the absence of discrimination in employment on all of the grounds listed under the Act i.e. sex, marital status, pregnancy, family responsibility or family status, sexual orientation, race, religious or political conviction, impairment, age or against gender reassigned persons on gender history grounds and breastfeeding
- to eliminate and ensure the absence of sexual and racial harassment in employment
- to promote equal employment opportunity for all persons.¹

Any person who uses, causes, instructs, induces, aids or knowingly permits another person to engage in discriminating or harassing behaviour in the workplace may be breaching the expected standards of behaviour prescribed in the Public Sector Code of Ethics and/or the WA Health Code of Conduct.

All discrimination and harassment matters will be treated seriously and confidentially with the appropriate support and action taken to resolve the matters. Victimisation is unlawful and will not be tolerated.

WA Health will ensure that employees have access to resolution processes to report and address discrimination and harassment matters. Matters of suspected misconduct will be responded to in accordance with the WA Health Misconduct and Discipline Policy and Guidelines.

¹ *Equal Opportunity Act 1984 (WA)*, s 140,

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2. SCOPE

This policy applies to all employees of WA Health, which incorporates the following entities:

- Department of Health
- Metropolitan Health Services
- WA Country Health Service
- Peel Health Service

This is a whole of health policy and supersedes all policies related to equity and diversity in WA Health.

3. DEFINITIONS

Discrimination

- **Direct discrimination**

Direct discrimination occurs when a person is treated less favourably than another person, in the same or similar circumstances, on one or more of the grounds and in one of the areas of public life covered by the EO Act. The grounds are:

- Age (being regarded as too young or too old*)
- Breastfeeding
- Family responsibility (having a caring role)
- Family status (being a relative of a particular person or having the status of being a particular relative)
- Gender history (having a reassigned gender as certified under the Gender Reassignment Act 2000)
- Impairment (having a physical, intellectual or mental disability that is current, past or believed to have an impairment*)
- Marital status (being single, married, a de facto partner, separated, divorced or widowed)
- Political conviction (including a lack of conviction)
- Pregnancy (being pregnant, having a characteristic associated with pregnancy or generally attributed to persons who are pregnant)
- Race (including colour, ethnicity or national origin or descent*)
- Religious conviction (including a lack of conviction)
- Sex (being a man or woman)
- Sexual orientation (including heterosexuality, homosexuality, lesbianism, bisexuality or assumed sexual orientation)
- Spent conviction (*Spent Convictions Act 1988*)²

* Includes discrimination on the ground that a relative or associate has this attribute.

² WA Health has an exemption under Schedule 3, Clause 1(7) of the *Spent Convictions Act 1988 (WA)*

Exceptions under the EO Act

The *EO Act* provides for a number of general and specific exceptions that relate to each ground of unlawful discrimination and, where used, must be justified. For example when there is a genuine occupational requirement for a person to have specific attributes. See the [EO Act](#) for further information.

- **Indirect discrimination**

Indirect discrimination occurs when a rule that applies to everyone has a worse effect on a group of people with a particular characteristic compared to people without that characteristic, and the rule is unreasonable in the circumstances.

Diversity

Diversity encompasses acceptance, respect and recognition of individual differences such as background, skills, talents and perspectives, as well as characteristics that are protected under equal opportunity legislation.

Equal Employment Opportunity

Equal Employment Opportunity ensures that everyone has equal access to available employment by ensuring that workplaces are free from discrimination and harassment. This includes ensuring workplace rules, policies, practices and behaviours are fair and do not directly or indirectly discriminate unlawfully.

Equal Opportunity/Diversity Groups (EO/Diversity Groups)

EO/Diversity Groups are those groups identified by the Director of Equal Opportunity in Public Employment for improved representation and distribution in the public sector workforce. These are women in management, people with disabilities, Aboriginal people³, people from culturally diverse backgrounds (CALD) and youth. WA Health has identified mature age employees as another priority group requiring specific strategies to retain within the workforce.

Racial harassment

Racial harassment occurs if a person is threatened, abused, insulted or taunted based upon a person's race or a characteristic belonging to, or generally believed to belong to, a particular race including colour, ethnic background or origin

Racial vilification

Under the *WA Criminal Code* the possession, publication and display of written or pictorial material that is threatening or abusive with the intention of inciting racial hatred or of harassing a racial group is illegal.

³ The use of the term "Aboriginal" within this document refers to Australians of both Aboriginal and Torres Strait Islander people.

Sexual harassment

Sexual harassment occurs when a person makes an unwelcome sexual advance or request for sexual favours or engages in unwelcome conduct of a sexual nature

Substantive equality

Substantive equality involves achieving equitable outcomes as well as equal opportunity. It takes into account the effects of past discrimination and it recognises that rights, entitlements, opportunities and access are not equally distributed throughout society. Substantive equality recognises that equal or the same application of rules for certain groups can have unequal results.

Refer to the [WA Health Substantive Equality Policy](#) for further information.

Victimisation

Victimisation includes threatening, harassing or punishing a person in any way because they have objected about the discriminatory manner in which they have been treated. It also applies to anyone who has made a complaint, or intends making a complaint.

Victimisation also applies to anyone giving evidence about a complaint.

4. WA HEALTH EQUITY AND DIVERSITY PLAN

In accordance with its obligations under Part IX of the *Equal Opportunity Act 1984* (EO Act), WA Health has in place the [WA Health Equity and Diversity Plan](#) which aims to develop an equitable and diverse workforce that is representative of the Western Australian community. The Plan seeks to achieve three key outcomes:

- the organisational culture values diversity and the work environment is free from racial and sexual harassment
- workplaces are free from employment practices that are biased or discriminate unlawfully against employees or potential employees
- employment programs and practices include strategies to achieve workforce diversity for identified EO/Diversity groups.

5. RESPONSIBILITIES

All Employees are responsible for:

- creating an environment in which other employees and patients/clients are treated with respect, dignity, fairness and without discrimination or harassment
- not using, causing, instructing, aiding or knowingly permitting another person to engage in discriminating or harassing behaviour in the workplace
- completing Health Service training relating to Equal Opportunity and Diversity
- seeking advice and reporting any discrimination and harassment matters.

Managers and supervisors are responsible for:

- promoting a workplace free of employment practices that are biased or discriminate unlawfully against employees, potential employees, clients or patients

- promoting a workplace culture that values and encourages diversity in terms of its workforce, service delivery and decision making processes
- ensuring employment programs and practices include strategies to attract and retain people from EO/Diversity Groups into the workforce
- ensuring all decisions are made in a fair and equitable manner
- valuing and promoting the diverse skills and competencies of all employees and utilising these skills in ways that serve to enhance the performance of the organisation and improve individual job satisfaction.

Chief Executives (or equivalent) are responsible for:

- providing the resources and support required to implement the strategies and work towards achieving the targets contained within the [WA Health Equity and Diversity Plan](#), within their Health Services. This includes:
 - developing strategies to assist in the prevention of harassment and discrimination
 - ensuring appropriate mechanisms are in place for reporting and addressing incidents of harassment and discrimination.

6. ADVICE AND SUPPORT

Employees are encouraged to access the Employee Assistance Program (EAP) and/or where available, contact local Health Service Employee Support Officers/Employee Contact Officers.

Alternatively, employees are encouraged to contact their local health service Workforce Services/Human Resources.

Managers requiring support should contact their local health service Workforce Services/Human Resources.

External Advice

- Relevant Industrial Union or Professional Association
- The Western Australian Equal Opportunity Commission (www.eoc.wa.gov.au). Telephone (9216 3900) or email (eoc@eoc.wa.gov.au).
- The Australian Human Rights Commission (www.humanrights.gov.au). Telephone (02 9284 9600) or email (complaintsinfo@humanrights.gov.au).

7. RESOLUTION OF DISCRIMINATION AND HARASSMENT MATTERS

Resolution of discrimination or harassment matters (other than suspected misconduct) may be managed and processed in accordance with the [Employee Grievance Resolution Policy](#) and [local Health Service Employee Grievance Resolution Guidelines](#).

8. RECORD KEEPING

Records will be maintained in accordance with:

- public sector record keeping practices
- the provisions of the General Disposal Authority for Human Resource Records
- the requirements of the *Freedom of Information Act 1992*.

9. RELEVANT LEGISLATION

Equal Opportunity Act 1984 (WA) (as amended)
Public Sector Management Act (1994) (WA) (as amended)
Occupational Safety and Health Act 1984 (WA) (as amended)
Occupational Safety and Health Regulations 1996 (WA) (as amended)
Disability Discrimination Act (1992) (Commonwealth) (as amended)
Disability Services Act (1993) (WA) (as amended)
Racial Discrimination Act (1975) (Commonwealth) (as amended)
Racial Hatred Act (1995) (Commonwealth) (as amended)
Sex Discrimination Act (1984) (Commonwealth) (as amended)
Human Rights and Equal Opportunity Commission Act 1986 (Commonwealth)
Criminal Code (WA)
State Records Act 2000 (WA) (as amended)

For relevant legislation, go to:

<http://www.slp.wa.gov.au/legislation/statutes.nsf/default.html>

For relevant Awards and Agreements, go to:

www.health.wa.gov.au/AwardsAndAgreements/

10. RELEVANT DOCUMENTS

[WA Health Code of Conduct](#)
[WA Health Equity and Diversity Plan 2010-2015](#)
[WA Health Aboriginal Cultural Learning Framework](#)
[WA Health Employee Grievance Resolution Policy](#)
[WA Health Preventing and Responding to Workplace Bullying](#)
[WA Health Workplace Policy for Breastfeeding](#)
[WA Health Recruitment Selection and Appointment Policy and Procedure](#)
[WA Health Misconduct and Discipline Policy and Guidelines](#)
[WA Health Disability Access and Inclusion Policy](#)
[WA Health Aboriginal and Torres Strait Islander Employment Framework](#)
[WA Health Substantive Equality Policy](#)

11. RELEVANT WEBSITES

[Equal Opportunity Commission](#)
[Disability Services Commission](#)
[Public Sector Commission](#)
[Office of Multicultural Interests](#)
[Department of Commerce \(Labour Relations\)](#)
[Australian Human Rights Commission](#)

12. AUTHORITY

Link to WA Health Policies	http://intranet.health.wa.gov.au/policies/doh_policy.cfm
Policy Owner	Workforce Directorate
Contact	policyofficer@health.wa.gov.au
Superseded documents	OD 116/08
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