

BEHAVIOUR & CULTURE POLICY

Policy Statement

Little Adventures Early Learning (LAEL) aims to provide all employees and others in the workplace with an environment that is safe and free from discrimination, harassment, bullying and victimisation. LAEL promotes a workplace in which people treat each other with courtesy and respect.

All unacceptable workplace behaviour outlined in the policy is contrary to LAEL values, and may result in the taking of disciplinary action, up to and including termination of employment or engagement (including summary termination), against a worker who engages in unacceptable workplace behaviour and/or those who permit to assist in the behaviour.

Workers should be aware that they are responsible for their own actions and that any claims of unacceptable workplace behaviour may result in civil or criminal proceedings against them in an individual capacity, as well as exposing LAEL to the risk of liability.

Strategies and Practices

- The *Behaviour and Culture Policy* is available to families upon enrolment and staff upon induction.
- This policy applies to all LAEL employees, (including full time, part time and casual employees, temporary and permanent employees, employees on leave and trainees), and all other people performing work for LAEL (including students and volunteers), who will collectively be referred to as “workers” in this document.

Behaviour Standards

- It is critical for the Approved Provider, Nominated Supervisor and workers employed by LAEL to comply with this policy and the outlined behaviour standards. They are to maintain a ‘can do’, positive attitude to deliver both internal and external customer service and continuous improvement.
- Business behaviours which deliver the culture of LAEL include:

Employees

1. Integrity
2. Accountability
3. Adaptability
4. Communication
5. Customer/Quality Focus
6. Teamwork

Managers

1. Integrity
2. Accountability
3. Leadership
4. Strategic Perspective
5. Relationship building
6. Analytical

- These Employee and Management behaviours drive our culture and are linked to all aspects of employment with LAEL.

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Unacceptable Workplace Behaviour

- Discrimination, bullying, sexual harassment, other forms of harassment, victimisation, vilification and workplace violence are considered unacceptable workplace behaviour by LAEL. Such behaviour is unlawful under state and federal legislation, including:
 - Racial Discrimination Act 1975 (Cth)
 - Sex Discrimination Act 1984 (Cth)
 - Disability Discrimination Act 1992 (Cth)
 - Age Discrimination Act 2004 (Cth)
 - Fair Work Act 2009 (Cth)
 - Anti-Discrimination Act 1977 (NSW)
 - Work Health & Safety Act 2011 (NSW)
- Tribunals and courts may impose personal fines on, or award damages against, an individual found to have engaged in unlawful discrimination, bullying, harassment, victimisation or vilification or for breaches of Work Health and Safety Legislation. Each category of unacceptable workplace behaviour is considered in more detail below.

Discrimination

Anti-discrimination legislation makes it unlawful to treat, or propose to treat, someone unfavourably because of a protected personal characteristic, such as age, sex, race or disability. The applicable legislation prohibits both direct and indirect discrimination. Discrimination can occur:

- **Directly**, when a person or group is, or is proposed to be, treated as less favourably because of a personal characteristic protected by law (see grounds of discrimination below). **For example**, a female employee being demoted because she is pregnant, telling jokes about someone, or teasing them because of their race, and failing to employ someone because of a disability; or
- **Indirectly**, when a requirement or condition appears to treat everyone the same but has the effect of disadvantaging people with protected personal characteristics (see grounds of discrimination below) and is unreasonable in the circumstances. **For example**, a requirement that employees work full time to receive a particular benefit may amount to indirect discrimination against employees with family responsibilities who work part time.

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Grounds of Discrimination

Federal and State legislation prohibits discrimination of a variety of grounds, including:

Jurisdiction	Legislation	Grounds
Federal	Sex Discrimination Act 1984 (Cth)	Sex, marital or relationship status, pregnancy or potential pregnancy, breastfeeding, family responsibilities, sexual orientation, gender, intersex status
Federal	Age Discrimination Act 2004 (Cth)	Age
Federal	Disability Discrimination Act 1992 (Cth)	Disability, which includes a disability that presently exists; previously existed but no longer exists; may exist in the future (including because of a genetic predisposition to that disability) or is imputed to a person
Federal	Racial Discrimination Act 1984 (Cth)	Race, colour, descent, nationality or ethnic origin
Federal	Fair Work Act 2009 (Cth)	Race, colour, sex, sexual orientation, age, physical or mental disability. Marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction, social origin
New South Wales	Anti-Discrimination Act 1977 (NSW)	Race, sex, transgender, marital or domestic status, disability, carer's responsibilities, homosexuality, age

It is also not permitted to treat a person unfavourably because of an assumption that they have, have had or will have in the future, a characteristic listed above or because they have a personal association within someone having any of those characteristics.

Sexual Harassment

- Sexual harassment is unwelcome sexual behaviour that occurs in circumstances in which a reasonable person would have anticipated the possibility that the person harassed would be offended, intimidated or humiliated. There is no requirement that the harasser intends to offend, humiliate or intimidate another person. The harasser's intention is irrelevant. Sexual harassment is not limited to a person of one sex harassing a person of the opposite sex and can be carried out against persons of any gender. It can be a one-off incident. It is unnecessary for a person to object to the behaviour at the time it occurs.
- Sexual harassment can be physical, written or spoken. It can occur in person or can be conducted through some other means such as emails, texts or other digital forms. Examples include, but are not limited to:
 - Comments about a person's body or appearance
 - Staring at a person or parts of their body
 - Gender based insults or taunting
 - Sexist jokes
 - Asking questions or divulging confidences of a sexual nature
 - Repeated requests for a date

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- Sexually suggestive behaviour
- Making jokes, verbal abuse or derogatory comments of a sexual nature
- Pornographic, rude or sexual emails, screensavers, text messages or postings on social networking sites
- Conversations or innuendo of a sexual nature including via email or by text message
- Touching another person's body in a sexual way
- Kissing or attempted kissing; and
- Behaviour which would be an offence under criminal law such as sexual assault, indecent exposure or stalking.
- Conduct of a sexual nature which is not specifically directed at a particular person can be sexual harassment and/or sex discrimination. For example, office banter of a sexual nature may intimidate or offend others who hear the discussion but do not participate in it, whether or not they expressly object to it. Sexual harassment is not a genuinely invited, reciprocated, or welcome flirtation, friendship or consensual sexual relationship. However, care needs to be exercised in considering whether such behaviour is genuinely invited or welcomed from the perspective of the person to whom the behaviour is directed.

Other Types of Harassment

- Harassment is unwelcome behaviour which is likely to offend, humiliate or intimidate. Legislation specifically prohibits harassment on certain grounds such as sex, race and disability. Harassment based on other grounds such as age or sexual orientation may, in the absence of a specific prohibition, constitute a form of direct or indirect discrimination.
- LAEL considers harassment on any grounds to be unacceptable workplace behaviour.
- Examples of workplace harassment include, but are not limited to:
 - Ridiculing a person based on their skin colour
 - Circulating racist jokes or cartoons
 - Patronising a person because of their age
 - Derogatory nicknames based on a person's sexual orientation; and
 - Making insulting and humiliating comments to a person with a disability.

Bullying

- Bullying in a workplace context usually consists of repeated, unreasonable behaviour, directed towards a worker, or group of workers by another person or group of people that creates a risk to health and safety. Unreasonable behaviour can include intimidation, threats, insults and victimisation. There may be circumstances where a single act is enough to constitute bullying, such as an "initiation ceremony" which physically endangers the life of a person.
- Examples of bullying an individual or group of individuals may include, but are not limited to:
 - Verbal or physical abuse

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- Excluding or isolating individuals
- Psychological harassment
- Deliberately undermining work performance, for example, by refusing to give sufficient instructions, imposing unnecessary deadlines or impossible assignments
- Belittling an individual's contribution or opinion
- Misusing a performance management system, or a return to work process; and
- Publicly criticising an individual or group of individuals.
- Reasonable performance management and/or managerial action carried out in a reasonable manner is not bullying.
- Bullying can be a contravention of Work Health and Safety Legislation. Where a person is bullied because of an attribute protected by Anti-Discrimination Legislation, such as race or age, it may also be unlawful under Anti-Discrimination Legislation. Bullying of any nature is considered unacceptable workplace behaviour by LAEL.
- Bullying can occur in numerous ways, including face-to-face, over the phone, via email, instant messaging, text messaging and social media, or a combination of all these forms.
- Bullying does not include reasonable management action taken by managers in the course of performing their supervisory duties which may result in some discomfort for the worker.
- A manager may take reasonable action to effectively direct and control the way that work is carried out.
- 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 to a worker in a transparent way
 - Fairly rostering and allocating working hours
 - Transferring a worker for legitimate operational reasons
 - Deciding not to select a worker for promotion, following a fair 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
 - Implementing organisational changes or restructuring
 - Performance management processes; and
 - Appropriate application of a grievance policy or counselling policy.
- If a person is bullied because of an attribute protected by anti-discrimination legislation, such as race or age, it may be unlawful under Anti-Discrimination Legislation. Bullying can also be a contravention of health and safety legislation. Bullying of any nature is considered unacceptable workplace behaviour by LAEL.

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Victimisation

- It is unlawful to victimise a person who lodges a complaint or is engaged in related actions. Victimisation occurs where a person subjects, or threatens to subject, another person to any detriment because that person has complained, or intends to complain about, being harassed, discriminated against, bullied, vilified or is subject to workplace violence. Victimisation also includes any conduct or threatened conduct against a person, such as a witness, because they are assisting or supporting a person who has been subjected to inappropriate behaviour.
- Victimisation can take many forms, for example:
 - Intimidation
 - Exclusion from team or company activities
 - Withholding opportunities
 - Any form of retaliation
 - Terminating the employment of an individual or refusing them a promotion; and
 - Threatening a person.
- If an individual lodges a complaint pursuant to Anti-Discrimination Legislation or raises a complaint about a matter that may be unlawful under other legislation, it is unlawful to victimise that individual or any person assisting with the complaint.

Vilification

- Vilification is where a person publicly abuses or derides another person because of a particular attribute. The threshold for whether the public use of acts or works (including but not limited to written or spoken conduct) constitutes vilification varies under different legislation schemes. For example, in NSW the test is whether the conduct provokes hatred, ridicule or contempt for a person or a group of people; while under the federal Racial Discrimination Act, the test is whether the act is reasonably likely in all circumstances, to offend, insult, humiliate or intimidate another person or group of people.
- Examples of vilification include displaying or communicating offensive material, uploading offensive material on the internet, social media platforms, calling people names and making offensive comments in public.

Workplace violence

- Workplace violence is any incident where a person is physically or verbally abused, threatened or assaulted. Workplace violence includes all forms of physical violence such as (but not limited to):
 - Striking, kicking, scratching, biting, spitting or any other type of direct physical contact
 - Throwing objects
 - Attacking with any type of weapon
 - Pushing, shoving, tripping and grabbing; and
 - Any form of indecent physical contact.

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- Violence may not always be critical or an extreme situation from the outset. It sometimes follows a pattern of escalating behaviour – from agitation, expressed anger or frustrating and intimidating body language, to verbal/written abuse and threats, physical threats or assault.
- Workplace violence may amount to criminal conduct for which an individual could be fined or imprisoned.

Out of Workplace Conduct

- This policy applies to out of workplace and out of hours conduct in so far that the conduct is connected with your employment or has an impact on the reputation or business activities of LAEL. While the following list is not exhaustive, workers are expected to uphold their professional responsibilities:
 - At work-related parties and functions (including if at the conclusion of events at which you decide to “kick on”)
 - During phone calls or attendance to events with other employees outside of working hours
 - At external conferences or seminars
 - While travelling for work purposes; and
 - When engaging in social media.
- LAEL also considers inappropriate conduct which is engaged ‘privately’ in connection with work to be unacceptable. Examples include employees sending ‘private’ emails between each other or a ‘private’ conversation between employees in the workplace during a break.
- Workers that engage in unacceptable workplace behaviour outside the workplace/hours may be subject to disciplinary action, up to and including termination of employment or engagement if there is a connection with their employment or engagement with LAEL.

Inappropriate Behaviour by Non-Employees to Little Adventures Early Learning Employees

- LAEL recognises the risk of inappropriate behaviour beyond its premises by persons other than a LAEL employee.
- If a LAEL employee experiences unlawful discrimination, harassment, vilification, bullying, violence or vilification, or witnesses another employee being subject to these inappropriate behaviours by a person other than a LAEL employee, the employee should report these incidents to the Nominated Supervisor/Responsible Person immediately, and call for police assistance if necessary.

Workplace Behaviour Responsibilities

- All workers are expected to contribute to creating an inclusive work environment, where individuals are respected and treated with courtesy.
- LAEL has a responsibility to take reasonable steps to prevent discrimination, harassment, bullying, victimisation, vilification and violence from happening in the workplace. This involves educating workers about inappropriate behaviour, putting this policy in place and making grievance procedures available.

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Workers

- Each worker must:
 - Ensure that he or she does not discriminate against, harass, bully, victimise, vilify or engage in workplace violence against any employee, child, parent/carer, supplier, or any other person associated with LAEL.
 - Not aid, abet or encourage other persons to engage in discrimination, harassment, bullying, victimisation, vilification or violence
 - Not engage in gossip or inappropriately disclose personal information about others and maintain confidentiality of a formal investigation
 - Treat others with courtesy and respect
 - Comply with this policy; and
 - Remain aware that they may individually be held legally responsible for their acts and may be subject to disciplinary action.

Responsible Persons

- Responsible Persons have an important role in the prevention of inappropriate workplace behaviour. Responsible Persons must endeavour to comply with the responsibilities applicable to all workers as well as:
 - Model appropriate workplace behaviour
 - Take reasonable steps to ensure that the team is aware of this policy
 - Take steps to stop inappropriate behaviour when they observe unacceptable workplace behaviour
 - Take appropriate steps to deal with complaints raised with them. Appropriate steps may include informal discussions with the relevant parties in order to attempt to resolve the complaint or referring it to the appropriate contact for more formal treatment, such as an investigation where required; and
 - Not victimise any person who has lodged a complaint under this policy.

How to Deal with Unacceptable Workplace Behaviour

- If you believe you have been discriminated against, harassed, bullied, victimised or vilified, or you have witnessed unacceptable workplace behaviour, you should take the following steps:
 - Where possible, tell the person that their behaviour is unacceptable and that it must stop. This is important as silence may be misconstrued as consent; and/or
 - Report the behaviour or incident to the Nominated Supervisor/Responsible Person; and/or
 - Approach the Human Resources Department for assistance; and/or
 - Make a formal complaint in accordance with the *LAEL Employee Grievance Policy*
- Any formal complaints of discrimination, harassment, bullying, victimisation, violence or vilification will be dealt with in accordance with the *LAEL Employee Grievance Policy*.

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- Where a person has raised concerns about a particular behaviour but does not wish to make a formal complaint, LAEL is obliged to consider the matter. If the concerns raised are serious in nature and/or if they may impact any person's health and safety, LAEL may be obliged to formally investigate the concerns.
- Workers are responsible for their own actions and claims of discrimination, harassment, bullying, victimisation, vilification or violence may be brought against them directly and against LAEL.

Breach of Policy

- Breach of this policy may result in disciplinary action, which may include termination of employment or engagement either with notice or summarily.
- Workers may also be personally liable for conduct engaged in contrary to this policy, in addition to making LAEL liable.
- Stakeholders other than workers of LAEL (such as suppliers and families) are expected to conduct themselves in a respectful manner in their interactions with LAEL. Stakeholders that engage in conduct contrary to this policy may jeopardise their involvement with LAEL. Where appropriate, workers may raise grievances about the behaviour of other stakeholders in accordance with the steps outlined above in this policy.
- If you are not an employee but you breach this policy, your involvement with LAEL may be terminated. You may also be personally liable for conduct engaged in contrary to this policy.

False Complaints

- Workers found to have falsely and willfully made a complaint or lodged a grievance may be subject to disciplinary action, including termination of employment or engagement.

References

- *Sex Discrimination Act 1984 (Cth)*
- *Age Discrimination Act 2004 (Cth)*
- *Disability Discrimination Act 1992 (Cth)*
- *Racial Discrimination Act 1984 (Cth)*
- *Fair Work Act 2009 (Cth)*
- *Anti-Discrimination Act 1977 (NSW)*
- Dr Brenda Abbey (Childcare by Design)

Policy Review

The Service encourages staff and parents to be actively involved in the review of each of its policies and procedures. In addition, the Service will accommodate any new legislative changes as they occur and any issues identified as part of the Service's commitment to quality improvement. The Service consults with relevant recognised authorities, where necessary, as part of the review to ensure the policy contents are consistent with current research and contemporary views on best practice.