Human Resources Manual

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Equal Employment Opportunity

1. Policy

Fitzroy Falls Aged Care Facility is an equal opportunity employer. Fitzroy Falls Aged Care Facility provides equal employment opportunity to all employees and applicants for employment without regard to sex, pregnancy, potential pregnancy, marital status, race, ethnic group, disability, age, carer status or family responsibilities, religious or political conviction, trade union membership or activity, sexual preference or any other factor not relevant to their duties.

2. Procedure

Scope of Policy:

This policy applies to everyone who works at Fitzroy Falls Aged Care Facility and who visits Fitzroy Falls Aged Care Facility including support staff, managers, temporary workers, contract workers, voluntary workers, Board members full-time, part-time and casual workers and visitors.

The policy applies to the application of all Fitzroy Falls Aged Care Facility policies, practices and procedures including:

- the advertisement of jobs
- recruitment and appointment
- terms and conditions of employment
- job description and specifications
- training
- conditions of work
- performance management
- payroll
- termination of employment.

Statement of intent:

- Our commitment is to create and sustain a work environment which supports mutual trust and assists each individual to reach their maximum potential at Fitzroy Falls Aged Care Facility. Fitzroy Falls Aged Care Facility strives for excellent staff in an excellent organisation.
- Fitzroy Falls Aged Care Facility is committed to its core values of Integrity, Justice, Respect, Compassion, Excellence, Welcome and Hope.
- Fitzroy Falls Aged Care Facility encourages motivated and productive employees who reflect our core values in all of their activities.
- Fitzroy Falls Aged Care Facility seeks to ensure a work environment which promotes job satisfaction, applies fair human resource practices and maximises performance and productivity. Fitzroy Falls Aged Care Facility prohibits unfair discrimination and harassment of employees and,
if warranted, disciplinary action will be taken, including termination of employment.

- Fitzroy Falls Aged Care Facility will endeavour to ensure no unfair discrimination takes place and that all employees enjoy equal access to opportunities within the organisation. The basis of employment decisions is based on individual merit.

- It is the responsibility of all employees to ensure that proper standards of conduct are upheld in the workplace. Staff in supervisory positions should take all reasonable steps to ensure that Fitzroy Falls Aged Care Facility environment is free from harassment and unfair discrimination. For the policy to have maximum effect it must be observed at all levels in Fitzroy Falls Aged Care Facility.

- Fitzroy Falls Aged Care Facility is committed to achieving as far as possible a balance between work and family life.
Grievance and Dispute Settlement Policy and Procedure

1. Policy

Fitzroy Falls Aged Care Facility is committed to providing a pleasant work environment for all employees. We acknowledge, however, that things do not always go smoothly and that employees can sometimes feel aggrieved about something that is happening at work. An employee can have a grievance about any decision, behaviour, act or omission (whether by management or other staff) that an employee feels is unfair, discriminatory or unjustified.

2. Procedure

Key elements of the grievance handling procedure:

- Impartiality. If you make a complaint, it will be investigated in a fair and impartial manner. No judgments or assumptions will be made, and no action will be taken until the investigation is complete. If a complaint is made against you, your rights will be protected and you will be given an opportunity to tell your side of the story.

- Confidentiality. You can feel secure that if you do make a complaint under this policy, it will remain confidential unless it is felt that a law has been broken. The only people who will have access to information about the complaint will be the person making the complaint and the person investigating unless permission is given by the complainant to speak to others.

- No victimisation. You can also rest assured that if you make a complaint you will not suffer in any way as a consequence. Management will ensure a person who makes a complaint is not victimised in any way.

- Timeliness. Each complaint will be finalised within as short a period as possible. All complaints should be finalised within one month.

- To protect the rights of all staff, any repeated complaints found to be mischievous will be handled through the performance management process.

What to do if you have a grievance?

- If you feel that you are being harassed or unfairly discriminated against, or if you are upset, concerned or angry about anything else at work, this grievance handling procedure is available to you so that things can be sorted out.

- Approach the person involved. In many situations, the most appropriate thing to do first is to tell the person who is the cause of the grievance how you feel. If the grievance is about their behaviour, tell them that it is not acceptable, offensive and/or hurtful. If it is about a work decision, tell them why you think it is unfair or inappropriate. Sometimes people behave inappropriately without realising, or make decisions without considering their repercussions. Telling the person will give them a chance to stop or change what they are doing.

- Go to your supervisor. If you don't feel like you can approach the person directly, or if approaching them has not worked, then go and explain the problem to your supervisor. Your supervisors have been trained to be
the first point of contact for people with complaints. Your supervisor will advise you about what your options are and what will happen if you decide to make a formal complaint. Nothing will be done in relation to the complaint without you agreeing.

- Go to your manager or the EEO/Grievance Officer. If you wish to make a formal complaint, or you don't feel comfortable about talking to your supervisor, you can then approach either your manager (the person who is the next level up from your supervisor) or the Complaints Officer. Your manager and the EEO/Grievance Officer have both been trained to investigate complaints.

**What happens next?**

- Once you have made the complaint to one of the above people, they will then consider whether there are any reasons why they should not proceed to deal with the complaint. They may be a friend of the person you complained about or they may not have enough power to deal with the complaint. It may be a performance management issue that the EEO/Grievance Officer decides should be dealt with by the manager. If they decide that they should not deal with your complaint, they will, with your consent, refer it on to the appropriate person.

- The EEO/Grievance Officer will suggest you access a support person if necessary.

- Minor grievances can often be nipped in the bud, do not require a written complaint and can be quickly mediated.

- For a formal grievance you will be interviewed. During this interview a number of things will be explained to you, Fitzroy Falls Aged Care Facility as what will happen if the complaint is found to be supported by the evidence, or if it is found to be not supported by the evidence. You will also be told where you can go if you are not happy with the way Fitzroy Falls Aged Care Facility is dealing with the complaint. The person dealing with the complaint will then either encourage you to write down the complaint, make a written record of the complaint or write one for you to sign.

- The person dealing with the complaint will then talk to the person about whom the complaint is made to hear their side of the story. They will also interview any witnesses and possibly the supervisor of the person complained about. These interviews will be conducted separately and impartially. The importance of confidentiality will be stressed to all parties and they will be warned of the consequences if there is a breach of confidentiality.

- The person dealing with the complaint will then tell you what the other people said and discuss what should be done to sort out the problem. You should say what action you would like taken, eg a written apology from the person, a written warning, etc.

- If the complaint remains unresolved it will be referred to a Fitzroy Falls Aged Care Facility Grievance Committee that will make a final decision as to the outcome of the complaint.
What happens if a grievance is made against you?

- Remember you are innocent until proven guilty.
- The EEO/Grievance Officer will suggest you access a support person.
- A formal complaint will be made in writing to you.
- You will be invited to respond to the allegations.
- You may be transferred or instructed to take leave with pay until investigations are complete.
- You will be kept informed.

Possible outcomes:

- If the complaint is proven, possible outcomes are:
  - written apology
  - an official warning
  - counselling
  - demotion
  - dismissal.
- If the complaint is unproven (not enough evidence), possible outcomes are:
  - relevant training for all staff
  - monitoring of behaviour of employees.
- If the complaint is proven not to have happened at all, possible outcomes are:
  - counselling for the person who made the complaint
  - a written apology
  - an official warning, demotion or dismissal of the complainant.
- The person dealing with the complaint will make sure that whatever outcome decided upon actually happens. He/she will also assess the effectiveness of the outcome from time to time.

Appeals

- If you feel that the grievance procedure has not been followed properly, or that the outcome is unacceptable to you, you may appeal to the Director of Care.
- The Director of Care will look at the way the complaint was handled and examine the outcome. If they think it was handled properly and that the outcome was appropriate they will take no further action. If they think that the complaint was not handled properly, or that the outcome was inappropriate, they will organise for the complaint to be looked at again.
- The review will be dealt with by someone other than the person who first handled the complaint.

Go to an external agency If you are not happy with the way your complaint has been dealt with by Fitzroy Falls Aged Care Facility, you may wish to go to an external agency for further advice and assistance which may include Human Rights and Equal Opportunity Commission or Anti-Discrimination Board, your Union, or Worksafe.
Harassment Policy and Procedure

1. Policy

Fitzroy Falls Aged Care Facility is committed to ensuring that all staff enjoy a workplace free from any type of unfair discrimination or harassment. Our commitment is to create and sustain a work environment which supports mutual trust and assists each individual to reach their maximum potential at Fitzroy Falls Aged Care Facility.

It is against Fitzroy Falls Aged Care Facility policy and a breach of equal opportunity and occupational safety and health laws to harass an employee because of their sex, race, pregnancy, potential pregnancy, marital status, race, ethnic group, disability, age, career status, family responsibilities, religious or political conviction, trade union membership or activity, sexual preference or any other factor not relevant to their duties. Harassment will also occur if it is based on a perception that a person has one of those attributes, even if they don't in fact, have that attribute. Workplace bullying and discrimination against employees on workers' compensation history are also types of harassment that will not be tolerated at Fitzroy Falls Aged Care Facility.

2. Procedure

Scope of policy

- This policy applies to everyone who works at Fitzroy Falls Aged Care Facility and who visits Fitzroy Falls Aged Care Facility including support staff, managers, temporary workers, contract workers, voluntary workers, Board members, full-time, part-time and casual workers and visitors.

Statement of intent

- Within Fitzroy Falls Aged Care Facility trust, cooperation and fair dealing are encouraged between all employees. This ensures that employees have a high quality work life and encourages effective teamwork between employees.

- Fitzroy Falls Aged Care Facility considers harassment and unfair discrimination to be unacceptable and it will not be tolerated under any circumstances.

- Fitzroy Falls Aged Care Facility is committed to its core values of Integrity, Justice, Respect, Compassion, Excellence, Welcome and Hope.

- Fitzroy Falls Aged Care Facility strives for excellent staff in an excellent organisation. Fitzroy Falls Aged Care Facility encourages motivated and productive employees who reflect our core values in all of Fitzroy Falls Aged Care Facility’s activities.

- Individuals found to have breached this policy or who are found to have engaged in harassing conduct will be subject to appropriate disciplinary action.
Workplace harassment contravenes equal employment opportunity law and also occupational health and safety laws as it creates an unsafe work environment.

Fitzroy Falls Aged Care Facility is an Equal Opportunity Employer. This policy should be read together with the Equal Employment Opportunity, Affirmative Action and Grievance and Dispute Settlement policies.

**Liability for harassment**

- It is the responsibility of Fitzroy Falls Aged Care Facility, and all employees of Fitzroy Falls Aged Care Facility, to comply with the relevant State and Commonwealth legislation.
- Any individual who is found to have harassed another person may be legally responsible for their actions and may be found to be liable. This can lead to substantial penalties and costs.
- Fitzroy Falls Aged Care Facility may be also legally responsible for harassment which occurs in the workplace or in connection with the person's employment.
- An employer may be liable for the conduct of:
  - individual employees or groups of employees
  - Board members, executive members, managers or supervisors
  - contract workers, consultants or people employed on commission
  - temporary workers.
- Fitzroy Falls Aged Care Facility managers have a legal obligation to identify and prevent harassment as part of their OSH responsibilities.

**Complaints procedure**

- Every person who believes that he or she is being harassed has the right to complain and take action. Harassment can happen to both males and females. It should be remembered that accusing another person of harassment is a serious matter.
- Any employee who considers that he or she has been harassed should immediately make it clear to the person concerned that the behaviour is unwelcome. It is important to say this to the alleged harasser as they might interpret silence as consent. If you are too frightened or embarrassed to say anything, this does not mean that your complaint will not be taken seriously.
- If an employee considers they have experienced harassment and has difficulty making it clear to the person that Fitzroy Falls Aged Care Facility behaviour is unwelcome, or the behaviour continues, the employee should immediately contact their manager.
- If a complaint is raised in relation to harassment it will be fully investigated. Fitzroy Falls Aged Care Facility's EEO/Grievance Officer will tell you your options.
- Do not ignore the harassment, thinking it will go away. Ignoring the behaviour could be taken for unspoken consent and often it just gets worse.
It is a good idea to make a written note of any harassment, including details of dates, times, witnesses, what happened and what you said/felt.

Managers or supervisors should listen to the complaint, take it seriously and act impartially.

All complaints of harassment will be:

- treated with the utmost confidentiality
- treated seriously
- attended to promptly
- be investigated impartially.

On becoming aware of the harassment, Fitzroy Falls Aged Care Facility will take any necessary steps:

- to ensure that the discriminatory or harassing behaviour does not continue
- to ensure that the complainant/s and witnesses are not victimised.

Any individual has the right to approach the Equal Opportunity Commission or Worksafe for either advice on the matter, or for the purpose of lodging a formal complaint.

Responsibilities of managers and any employee with supervisory responsibilities eg registered nurse

- It is part of the role of managers and supervisors to ensure that harassment does not occur in the workplace. Managers and supervisors must ensure that they do not engage in harassing behaviour themselves - either of other employees, other managers or supervisors, or customers.

- When managers observe harassment happening in the workplace, they should take steps to stop it and warn the person/s involved of the consequences if the offending behaviour continues.

- Managers and supervisors are also responsible for ensuring that all staff are aware that harassment will not be allowed in the workplace and that complaints will be dealt with in accordance with the terms of Fitzroy Falls Aged Care Facility Grievance and Dispute Settlement Policy.

- If a manager or supervisor is told about harassment, he/she is obliged to make sure that confidentiality is maintained.

- If the manager or supervisor feels that he or she is not the appropriate person to be dealing with a complaint, he or she will refer the matter to Fitzroy Falls Aged Care Facility's EEO/Grievance Officer.
Responsibilities of employees

- Employees are legally obliged to ensure that they do not harass other employees, managers, supervisors or customers of Fitzroy Falls Aged Care Facility. Employees must also ensure that they do not encourage harassment.

- If you become aware that someone you work with is being harassed, you can assist them in a number of ways. Tell them that you are willing to act as a witness if they decide to make a complaint. Back them up or support them in saying "no" to the harasser. However, it is not your responsibility to say anything to the alleged harasser. Remember that if you spread rumours about anyone, you may be subject to a defamation action.

Consequences of breaching policy

- Any breach of this policy may result in disciplinary action, including counselling, transfer, demotion, and termination of employment.

- Persons who commit acts of harassment run the risk of opening themselves and Fitzroy Falls Aged Care Facility to claims for compensation in an equal opportunity action by a person aggrieved by the conduct.

Where to go for more information

For more information about workplace harassment, you can approach the following:

- your manager
- Employee Services
- the EEO/Grievance Officer
- your union
- the Human Rights and Equal Opportunity Commission
- the Anti-Discrimination Board
- Worksafe.
Code of Conduct Policy

All employees have duty of care to comply with this policy. Disciplinary action can result when an employee does not comply with the relevant policies and procedures of Fitzroy Falls Aged Care Facility, legislation and their position description.

1. Employee Rights:
   - To have access to policies, procedures, standards and protocols
   - To be provided with a position description relevant to their role
   - To be given work that is appropriate to their level of skill and knowledge and position description
   - To be provided with appropriate education, training, demonstration and/or supervision to enable employee to work safely and effectively
   - To be adequately remunerated in accordance with relevant award and/or employee contract of employment

2. Employee Responsibilities:
   - To work within the law and in accordance with policies, procedures, standards and protocols relevant to role and/or work task
   - To work in accordance with position description relevant to their role
   - To inform management if unable to perform any task or part of their role because they feel they are not confident or competent to perform
   - To refuse to perform and immediately inform management if they believe the work they have been asked to undertake is outside their level of skill and knowledge, position description or legally the role of another person.

3. Misconduct:

The following types of behaviour or actions can be called misconduct and may result in disciplinary action:

   - Unintentional damage to equipment caused by a lack of due care and attention.
   - Deliberate failure to follow instructions correctly.
   - Late arrival or finishing a rostered shift early when no reasonable excuse or explanation is offered or it occurs frequently.
   - Unauthorised absenteeism (not turning up for work and not notifying Manager).
   - Any violation of health and safety regulations.
   - Carrying out unauthorised activities during working time or deliberately wasting time.
   - Leaving the designated place of work without the consent of the manager and without a reasonable explanation.
   - Rudeness or inappropriate language.
   - Lack of due care and attention to clients/residents.
   - An uncooperative/poor attitude towards colleagues and management.
4. Willful or Gross Misconduct:

The following types of behaviour are called willful or gross misconduct and can result in instant or summary dismissal. Instant dismissal arises when the evidence available absolutely proves misconduct. The employee ends employment immediately and does not receive any pay in lieu of notice. Summary dismissal arises when the evidence available shows a very strong suspicion of misconduct. The employee ends employment immediately but receives pay in lieu of notice.

- Dereliction of duty resulting in actual or potential danger or neglect.
- Drinking alcohol whilst on duty (unless prior approval given by the manager for a social occasion; alcohol consumed in this circumstance must be within reasonable limits)
- Taking or possessing illegal drugs whilst on duty.
- Attempting to work, or working under the influence of alcohol or illegal drugs.
- Verbal or physical abuse upon another person.
- Deliberate refusal to carry out a reasonable and lawful request by a manager or other authorised person.
- Deliberate damage or abuse to plant, equipment or property of Fitzroy Falls Aged Care Facility, clients or residents.
- Proven theft from Fitzroy Falls Aged Care Facility, residents, clients or other staff.
- Violation of health and safety rules.
- Unauthorised use of Fitzroy Falls Aged Care Facility property.
- Proven harassment.
Affirmative Action Policy and Procedure

Affirmative Action (AA)

▶ In line with the requirement of the Affirmative Action (Equal Employment Opportunity for Women) Act 1986, Fitzroy Falls Aged Care Facility has in place an affirmative action program and lodges an annual report on the operation of that program with the Director of Affirmative Action.

▶ Affirmative action is a means of ensuring EEO for women, as it is aimed at the removal of barriers to women achieving equality in the workplace. The aim of affirmative action is to review policies and procedures to ensure that they do not result in the unfair treatment of women. This will enable each woman within the organisation to achieve her full potential.

▶ Fitzroy Falls Aged Care Facility recognises that affirmative action is good business sense, as it has benefits for the whole organisation. For this reason, affirmative action has now been incorporated into the company's overall business plan. Having a workforce of predominantly women does not necessarily ensure affirmative action in career development.

▶ Affirmative action does not discriminate against men in any way, and does not mean that women will be favoured. It is based on the merit principle.

▶ The aims of Fitzroy Falls Aged Care Facility's AA philosophy are:

  o to recognise barriers within the workplace that may prevent EEO for women;
  o to encourage women to enter non-traditional jobs;
  o to encourage women in management;
  o to assist employees find a balance between work and family life.

▶ Overall responsibility for affirmative action at Fitzroy Falls Aged Care Facility lies with the CEO. The oversight of AA is the responsibility of the EEO/Grievance Officer.

Complaints Procedure

▶ Any employee who considers that he or she has been discriminated against should contact their Manager or Employee Services Manager.

Responsibility for EEO and AA

▶ The responsibility for implementing EEO and AA at Fitzroy Falls Aged Care Facility lies with every manager. However, the Employee Services Manager has been appointed the company's EEO/Grievance Officer.

▶ The EEO/Grievance Officer is responsible for:

  o ensuring that the Equal Employment Opportunity Policy is implemented;
  o overseeing the compliance of the Fitzroy Falls Aged Care Facility's affirmative action and equal employment opportunity policy;
  o training staff on EEO and related issues;
  o keeping the senior management group up to date with legislative changes and requirements at all times;
  o investigating the needs of staff in order to assist them in balancing work and family life; and
Discrimination (See Workplace Harassment)

Generally, unfair discrimination is a conduct which distinguishes between individuals or groups so that some are disadvantaged. Discrimination does not have to be conscious or planned. It can occur because an employer or employee holds a particular set of beliefs about people and then acts according to those beliefs.

Harassment (See Workplace Harassment)

Unlawful harassment includes any unwelcome advance or request, offensive comment or action concerning a person's sex, race, ethnic origin, marital status, pregnancy, potential pregnancy, disability, age, family responsibility, family status, religious or political conviction or other prohibited ground of discrimination. It is behaviour towards another employee which is intimidating, humiliating or insulting. This includes "bullying".

Disabilities

- Employees of Fitzroy Falls Aged Care Facility with disabilities or who become disabled in the course of their employment should discuss with their Manager or Employee Services Manager any reasonable adjustments to their employment or working conditions which they consider to be reasonably necessary or would reasonably assist them in the performance of their duties. This will enable Fitzroy Falls Aged Care Facility to assist staff to achieve their maximum potential.

- There may however be circumstances where it will not be reasonable or practicable for Fitzroy Falls Aged Care Facility to provide the accommodation sought, for instance where the safety or care of clients or other employees may be compromised.

Consequences of Breaching Policy

- Any breach of this policy may result in disciplinary action, including counselling, transfer, demotion, and termination of employment.

- Persons who commit acts of unlawful discriminatory or harassing conduct risk exposing both themselves and Fitzroy Falls Aged Care Facility to claims for compensation in an equal opportunity action by a person aggrieved by the conduct.