

EQUAL EMPLOYMENT OPPORTUNITY (EEO), DISCRIMINATION AND SEXUAL HARASSMENT POLICY

AIMS

Australia and New Zealand Transplant and Cellular Therapies Ltd ("**ANZTCT**") is committed to providing a safe, flexible and respectful environment for staff and clients free from all forms of discrimination, bullying, sexual harassment and harassment on the ground of sex.

ANZTCT is also committed to prevent conduct that subjects a person to a hostile workplace environment on the ground of sex.

All staff are required to treat others with dignity, courtesy and respect.

By effectively implementing our EEO (Equal Employment Opportunity), Discrimination and Sexual Harassment Policy we aim to attract and retain talented staff and create a positive environment for staff and other persons in our workplace.

SCOPE

This policy applies to:

- Board members;
- All staff, including: managers and supervisors; full-time, part-time or casual, temporary or permanent staff; job candidates; student placements, apprentices, contractors, sub-contractors and volunteers;
- How ANZTCT provides services to clients and how it interacts with other members of the public;
- All aspects of employment:
 - recruitment and selection
 - conditions and benefits
 - training and promotion
 - task allocation
 - shifts
 - hours
 - leave arrangements
 - workload
 - equipment and transport;
- On-site, off-site or after-hours work; work-related social functions; conferences - wherever and whenever staff may be as a result of their duties;
- Staff treatment of other staff, of clients, and of other members of the public encountered in the course

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of their duties.

In so far as this policy imposes any obligations on ANZTCT, those obligations are not contractual and do not give rise to any contractual rights.

To the extent that this policy describes benefits and entitlements for employees, they are discretionary in nature and are also not intended to be contractual.

The terms and conditions of employment that are intended to be contractual are set out in an employee's written employment contract.

ANZTCT may unilaterally introduce, vary, remove or replace this policy at any time.

POSITIVE DUTY TO ELIMINATE SEXUAL HARASSMENT

ANZTCT is committed to comply with the positive duty under the Sex Discrimination Act 1984 (Cth) to take reasonable and proportionate measures to eliminate, as far as possible:

1. sexual harassment (being unwelcome conduct of a sexual nature);
2. harassment on the ground of sex (being unwelcome conduct based on the sex of the person, but not necessarily sexual in nature);
3. discrimination on the ground of a person's sex (being differential treatment based on the sex of the person);
4. conduct that subjects a person to a hostile workplace environment on the ground of sex (being, conduct that results in an offensive, intimidating and humiliating environment for people of one sex, but not necessarily directed at a person);
5. acts of victimisation that relate to complaints, proceedings, assertions or allegations in relation to conduct in points 1 to 4 above.

The various forms of harassment, discrimination and victimisation referred to above are explained more fully later on in this policy.

The steps ANZTCT will take in order to eliminate all forms of sexual harassment, discrimination and victimisation include:

1. Undertaking periodic risk assessments to identify the risk of sexual harassment, discrimination and victimisation in the workplace;
2. Taking reasonable and proportionate steps to address those risks;
3. Implementing appropriate policies to specify expected behaviours in the workplace including this policy and a Bullying Policy;
4. Ensuring there is an effective grievance handling framework in place to address any reports of sexual harassment, discrimination and victimisation (see our **Grievance Handling Policy**);
5. Providing appropriate training to all staff on all such matters;
6. Promoting a workplace culture in which all forms of sexual harassment, discrimination and victimisation are not tolerated and in which staff are encouraged to report any forms of such behaviour that they are subject to or witness.

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STAFF RIGHTS AND RESPONSIBILITIES

All staff are entitled to:

- Recruitment and selection decisions based on merit and not affected by irrelevant personal characteristics;
- Work free from discrimination, bullying, sexual harassment and harassment on the ground of sex;
- Work in an environment that is not hostile on the ground of sex
- The right to raise issues or to make an enquiry or complaint in a reasonable and respectful manner without being victimised;
- Reasonable flexibility in working arrangements, especially where needed to accommodate their family responsibilities, disability, religious beliefs or culture.

All staff must:

- Follow the standards of behaviour outlined in this policy;
- Offer support to people who experience discrimination, bullying, sexual harassment, harassment on the ground of sex, or a workplace environment that is hostile on the ground of sex, including providing information about how to make a complaint;
- Avoid gossip and respect the confidentiality of complaint resolution procedures;
- Treat everyone with dignity, courtesy and respect.

ADDITIONAL RESPONSIBILITIES OF MANAGERS AND SUPERVISORS

Managers and supervisors must also:

- Take steps to educate and make staff aware of their obligations under this policy and the law;
- Intervene quickly and appropriately when they become aware of inappropriate behaviour;
- Act fairly to resolve issues and enforce workplace behavioural standards, making sure relevant parties are heard;
- Help staff resolve complaints informally;
- Refer formal complaints about breaches of this policy to the appropriate complaint handling officer for investigation;
- Ensure staff who raise an issue or make a complaint are not victimised;
- Ensure that recruitment decisions are based on merit and that no discriminatory requests for information are made;
- Seriously consider requests for flexible work arrangements.

UNACCEPTABLE WORKPLACE CONDUCT

Discrimination, bullying, sexual harassment, harassment on the ground of sex and conduct that creates a workplace environment that is hostile on the ground of sex are unacceptable at ANZTCT and are unlawful under legislation including:

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- Sex Discrimination Act 1984 (Cth);
- Racial Discrimination Act 1975 (Cth);
- Disability Discrimination Act 1992 (Cth);
- Age Discrimination Act 2004 (Cth);
- Australian Human Rights Commission Act 1986 (Cth).

Staff (including managers) found to have engaged in such conduct might be counselled, warned or disciplined. Severe or repeated breaches can lead to formal discipline up to and including termination of employment.

Under the law staff can be held personally liable for certain breaches of discrimination law, and ANZTCT can also be vicariously liable for staff members' conduct.

DISCRIMINATION

Discrimination is treating, or proposing to treat, someone unfavourably because of a personal characteristic protected by the law, such as sex, age, race or disability.

Discrimination can occur:

- **Directly**, when a person or group is treated less favourably than another person or group in a similar situation because of a personal characteristic protected by law (see list below).
 - For example, a worker is harassed and humiliated because of their race or a worker is refused promotion because they are 'too old'
- **Indirectly**, when an unreasonable requirement, condition or practice is imposed that has, or is likely to have, the effect of disadvantaging people with a personal characteristic protected by law (see list below).
 - For example, redundancy is decided based on people who have had a worker's compensation claim rather than on merit.

Protected personal characteristics under Federal discrimination law include:

- A disability, disease or injury, including work-related injury;
- Parental status or status as a carer, for example, because they are responsible for caring for children or other family members;
- Race, colour, descent, national origin, or ethnic background;
- Age, whether young or old, or because of age in general;
- Sex;
- Industrial activity, including being a member of an industrial organisation like a trade union or taking part in industrial activity, or deciding not to join a union;
- Religion;
- Pregnancy and breastfeeding;
- Sexual orientation, intersex status or gender identity, including gay, lesbian, bisexual, transsexual, transgender, queer and heterosexual;
- Marital status, whether married, divorced, unmarried or in a de facto relationship or same sex relationship;
- Political opinion;
- Social origin;

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- Medical record;
- An association with someone who has, or is assumed to have, one of these characteristics, such as being the parent of a child with a disability.

It is also against the law to treat someone unfavourably because you assume they have a personal characteristic or may have it at some time in the future.

DISABILITY DISCRIMINATION

Employers are also required in some circumstances to make "reasonable adjustments" to facilitate employees with disabilities to perform the "inherent requirements" of the particular role they perform. An employer will be deemed to have discriminated against an employee if they fail to make these adjustments.

The "inherent requirements" of a position are the essential activities that must be carried out to fulfil the purpose of the position.

An adjustment is not reasonable if it will impose "unjustifiable hardship" on the employer. In assessing unjustifiable hardship factors to be considered include:

- The nature of the benefit or detriment to be imposed on any person concerned, including the community;
- The effect of the employee's disability;
- The financial circumstances and the estimated amount of expenditure required to be made by the employer;
- The availability of financial and other assistance to the employer.

Examples of adjustments that may in some circumstances be reasonable for an employer to make include:

- **Changing recruitment and selection procedures.** For example, providing a sign language interpreter for a Deaf person or ensuring the medical assessor is familiar with a person's particular disability and how it relates to the job requirements.
- **Modifying work premises.** For example, making ramps, modifying toilets or providing flashing lights to alert people with a hearing loss.
- **Changes to job design, work schedules or other work practices.** For example, swapping some duties among staff or providing regular meal breaks for a person with diabetes.
- **Modifying equipment.** For example, lowering a workbench or providing an enlarged computer screen.
- **Providing training or other assistance.** For example, running induction programs for staff with a disability and their co-workers, providing a mentor or support person for a person with an intellectual disability, and including staff with a disability in all mainstream training.

It is not unlawful to discriminate against a person because of their disability where:

- They cannot meet the inherent requirements of the job, even when the employer has made any reasonable adjustments; or
- Providing the person with reasonable adjustments to facilitate their disability imposes an unjustifiable

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hardship on the employer.

Behaviours that may constitute bullying include:

- Sarcasm and other forms of demeaning language;
- Threats, abuse or shouting;
- Coercion;
- Isolation;
- Inappropriate blaming;
- Ganging up;
- Constant unconstructive criticism;
- Deliberately withholding information or equipment that a person needs to do their job or access their entitlements;
- Unreasonable refusal of requests for leave, training or other workplace benefits.

Any form of bullying is unacceptable in ANZTCT and may also be against workplace health and safety law.

ANZTCT has a separate Workplace Anti-Bullying and Anti-Harassment Policy which employees must read and abide by, this deals with bullying and harassment that is not a form of discrimination (ie where not based on a protected personal characteristic).

SEXUAL HARASSMENT AND HARASSMENT ON THE GROUND OF SEX

Sexual harassment is a specific and serious form of harassment. It is unwelcome sexual behaviour, which could be expected to make a person feel offended, humiliated or intimidated. Sexual harassment can be physical, spoken or written. It can include:

- Comments about a person's private life or the way they look;
- Sexually suggestive behaviour, such as leering or staring;
- Brushing up against someone, touching, fondling or hugging;
- Sexually suggestive comments or jokes;
- Displaying offensive screen savers, photos, calendars or objects;
- Repeated unwanted requests to go out;
- Requests for sex;
- Sexually explicit posts on social networking sites;
- Insults or taunts of a sexual nature; intrusive questions or statements about a person's private life; sending sexually explicit emails or text messages;
- Inappropriate advances on social networking sites;
- Accessing sexually explicit internet sites;
- Behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

Just because someone does not object to inappropriate behaviour in the workplace at the time, it does not mean that they are consenting to the behaviour.

Harassment on the ground of sex occurs, where a person is harassed by reason of:

- their sex; or
- a characteristic that appertains generally to persons of their sex; or

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- a characteristic that is generally imputed to persons of their sex.

Harassment on the ground of sex is also referred to as "sex-based harassment".

Harassment in this context means any unwelcome conduct of a demeaning nature by reason of the person's sex in circumstances in which a reasonable person would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

Harassment on the grounds of someone's sex does not need to be sexual in nature to be unlawful. For example, harassment that is on the grounds of sex may include sexist remarks, which, for example, imply that certain tasks are strictly 'men's work' or 'women's work'.

Sexual harassment and harassment on the ground of sex occurs in the workplace when it happens at work, at work-related events, between people sharing the same workplace, or between colleagues outside of work.

All staff and volunteers have the same rights and responsibilities in relation to sexual harassment and harassment on the ground of sex.

A single incident is enough to constitute sexual harassment or harassment on the ground of sex - it doesn't have to be repeated.

All incidents of sexual harassment and harassment on the ground of sex - no matter how large or small or who is involved - require employers and managers to respond quickly and appropriately.

ANZTCT recognises that comments and behaviour that do not offend one person can offend another. This policy requires all staff and volunteers to respect other people's limits.

ANZTCT will not tolerate or accept any form of sexual harassment or harassment on the ground of sex, in the workplace or in any work-related context such as conferences, work functions and business trips.

All staff members are responsible for their own behaviour, and under the law may be held personally liable if they engage in sexual harassment or harassment on the ground of sex.

An individual who causes, instructs, induces, aids or permits someone else to engage in sexual harassment, or sex-based harassment can also be found to have engaged in unlawful conduct. ANZTCT may also be vicariously liable for staff members found to have engaged in any form of sexual harassment or harassment on the ground of sex.

CONDUCT THAT SUBJECTS A PERSON TO A HOSTILE WORKPLACE ENVIRONMENT ON THE GROUND OF SEX

It is unlawful for a person to subject another person to a workplace environment that is hostile on the ground of sex.

Such unlawful conduct is conduct which results in an offensive, intimidating and humiliating environment for

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people of one sex, but does not necessarily need to be directed at a specific person. Conduct that could result in people of one sex feeling unwelcome or excluded by the general work environment includes displaying obscene or pornographic materials, general sexual banter or innuendo and offensive jokes.

Staff can be personally liable for any such conduct and ANZTCT may also be vicariously liable for the actions of staff members.

ANZTCT is committed to ensure that its workplace is not one which is hostile on the ground of sex.

VICTIMISATION

Victimisation is subjecting or threatening to subject someone to a detriment because they have asserted their rights under equal opportunity law, made a complaint, helped someone else make a complaint, or refused to do something because it would be discrimination, sexual harassment, harassment on the ground of sex, conduct that creates a hostile workplace environment on the ground of sex or victimisation. Victimisation is against the law.

It is also victimisation to threaten someone (such as a witness) who may be involved in investigating an equal opportunity concern or complaint

Victimisation is a very serious breach of this policy and is likely (depending on the severity and circumstances) to result in formal discipline against the perpetrator

ANZTCT has a zero-tolerance approach to victimisation.

VILIFICATION

Vilification is where a person commits a public act which is reasonably likely to offend, insult, humiliate or intimidate another person because of their race, sex, religion, sexuality or sexual identity. Hatred or vilification due to an attribute protected under equal opportunity laws is unlawful

ANZTCT will not tolerate or accept any form of hatred or vilification due to a protected attribute of another person.

Any conduct that can possibly be observed by the public or any sort of communication either verbal or in writing to the public can be considered a public act. Workplaces can be public places.

ANZTCT may be vicariously liable for staff members found to have engaged in any form of unlawful hatred or vilification. Staff may also be sued personally or prosecuted criminally under Commonwealth or State criminal laws.

Conduct that may constitute vilification can include verbal or written statements, or even be the reproduction or distribution of already published information. Examples include:

- Offensive material on the internet, including e-forums, blogs, social networking sites and video sharing sites;

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- Offensive comments or images published in a publication such as a leaflet, flyer, internal message board or workplace intranet;
- Offensive speeches at public events, work functions or in the workplace;
- Abusive comments in any public place, such the workplace, or any other place attended in connection with employment; or
- In some instances, the reproduction or distribution of already published information around the workplace.

CONFIDENTIALITY

It is unacceptable for staff at ANZTCT to talk with other staff members, clients or suppliers about any complaint of discrimination or harassment without ANZTCT's express permission.

Breaching the confidentiality of a formal complaint investigation or inappropriately disclosing personal information obtained in a professional role (for example, as a manager) is a serious breach of this policy and may lead to formal discipline.

DECISIONS TO BE BASED ON MERIT

All recruitment and job selection decisions at ANZTCT will be based on merit - the skills and abilities of the candidate as measured against the inherent requirements of the position - regardless of personal characteristics.

It is unacceptable and may be against the law to ask job candidates questions, or to in any other way seek information, about their personal characteristics, unless this can be shown to be directly relevant to a genuine requirement of the position.

RESOLVING ISSUES

ANZTCT strongly encourages any staff member who believes they have been discriminated against, bullied, sexually harassed, harassed on the ground of sex, vilified or victimised to take appropriate action by making a complaint in accordance with the Grievance Handling Policy.

Any staff member who has witnessed any discrimination, bullying, sexual harassment, harassment on the ground of sex, conduct that creates a hostile workplace environment on the ground of sex, vilification or victimisation should report this to their manager or other responsible person in ANZTCT, or can raise a complaint in accordance with the Grievance Handling Policy.

OTHER POLICIES

Employees are encouraged to read this policy in conjunction with other relevant Company policies. The list of relevant policies includes the following: Code of Conduct; Bullying Policy; Disciplinary & Termination Policy; Grievance Handling Policy; Acceptable Use of Electronic Media Policy.

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