



# **A Manual for Best Practice in Employment Relations and OH&S**

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**DISCLAIMER**

The Association has made every attempt to ensure that the information contained in this Guideline Manual can be relied upon at the time of production (August 2019 unless a later date is indicated at the bottom of a page). Whilst every attempt has been made to ensure that the contents of the Manual are consistent with current legislative requirements, the Manual should not be relied upon as a substitute for legal advice. Institutes should be aware that laws relating to employment issues are constantly reviewed and amended. Legal advice should be sought before dealing with any case.

**Reviewed and revised 30 August 2019**

<b>Reviewed by:</b> Sharon Junker <b>Date:</b> 30/8/2019	<b>Review:</b> 01/02/2020 <b>Owner:</b> Sharon Junker
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### INTRODUCTION

The Victorian TAFE Association *A Manual for Best Practice in Employment Relations and OH&S* has been prepared to provide Institute Boards, CEO's, Human Resource staff and line managers with a best practice guidance on contemporary human resources, employee relations/industrial relations, and OH&S practices.

This latest manual has been fully revised and updated as of August 2019, taking into consideration the *Victorian Teaching Staff Agreement 2018*, where considered appropriate. This edition also includes new policies for "Industrial Relations", "Reportable conduct Scheme" and "Protected Disclosures", and some of the recruitment forms have been replaced with current versions. A "Study Leave" policy has also been included.

Also, the "legislation" section has been updated, and "useful guides" and now incorporated in this manual and all links checked correct as of 30 August 2019.

It is not our intention that the manual should cover all aspects of Employment Relations Management as there are many comprehensive manuals, policies and procedures readily available and applied throughout the sector. TAFE's may wish to consider and apply aspects of this manual to augment, revise or include in their own materials.

The manual has been set out in a logical format covering the employee lifecycle with policies, procedures, forms and templates.

As employment and case law precedents evolve, the VTA will strive to provide you with timely and accurate updates.

Above all, this manual is a small but important part of the services provided to members by the Victorian TAFE Association, including useful guides and copies of legislation.

**Please refer any questions, omissions or errors in this manual to [enquiries@vta.vic.edu.au](mailto:enquiries@vta.vic.edu.au).**

For other support not covered in this manual, members should consult the VTA website [www.vta.vic.edu.au](http://www.vta.vic.edu.au) or contact our office.

Faithfully



Andrew Williamson  
Executive Director

11 March 2019

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### Legislation & Useful Links

The following legislation and “useful links” have been referenced in the making of this manual:

#### Commonwealth

The following legislation can be accessed in full at: <https://www.legislation.gov.au/>

- Acts Interpretation Act 1901
- Age Discrimination Act 2004
- Disability Discrimination Act 1992
- Fair Work Act 2009
- Fair Work Regulations 2009
- Independent Contractors Act 2006
- Paid Parental Leave Act 2010
- Privacy Act 1988
- Racial Discrimination Act 1975
- Sex Discrimination Act 1984
- Sex Discrimination Regulations 1984
- Visa Entitlement Verification Online (VEVO).

#### State (Victoria)

The following legislation can be accessed in full at: <http://www.legislation.vic.gov.au/>

- Aboriginal Heritage Act 2006
- Aboriginal Heritage Regulations 2007
- Accident Compensation Act 1985
- Accident Compensation Regulations 2012
- Accident Compensation (Occupational Health and Safety) Act 1996
- Accident Compensation (WorkCover Insurance) Act 1993
- Asbestos Diseases Compensation Act 2008
- Back to Work Act 2015
- Carers Recognition Act 2012
- Charter of Human Rights and Responsibilities Act 2006
- Charter of Human Rights and Responsibilities (General) Regulations 2017
- Charter of Human Rights and Responsibilities (Public Authorities) Regulations 2013
- Child Employment Act 2003
- Child Employment Regulations 2014
- Child Wellbeing and Safety Act 2005
- Child Wellbeing and Safety Regulations 2017
- Children's Services Act 1996
- Children and Young Persons Act 1989
- Children, Youth and Families Act 2005
- Children, Youth and Families Regulations 2017
- Children Legislation Amendment (Reportable Conduct) Act 2017
- Child Wellbeing and Safety Act 2005 Commission for Children and Young People Act 2012

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- Climate Change Act 2017
- Crimes Act 1958
- Dangerous Goods Act 1985
- Dangerous Goods (Explosives) Regulations 2011
- Dangerous Goods (HCDG) Regulations 2016
- Dangerous Goods (Storage and Handling) Regulations 2012
- Dangerous Goods (Transport) Regulations 1987
- Disability Act 2006
- Environment Protection Act 1970
- Equal Opportunity Act 2010
- Fair Work (Commonwealth Powers) Act 2009
- Family Violence Protection Act 2008
- Freedom of Information Act 1982
- Heritage Act 2017
- Juries Act 2000
- Juries Regulations 2011
- National Domestic Violence Order Scheme Act 2016
- National Domestic Violence Order Scheme Regulations 2017
- Occupational Health and Safety Act 2004
- Occupational Health and Safety Regulations 2017
- Privacy and Data Protection Act 2014
- Protected Disclosure Act 2012 (includes Whistleblowers provisions)
- Public Administration Act 2004
- Public Records Regulations 2013
- Racial and Religious Tolerance Act 2001
- Renewable Energy (Jobs and Investment) Act 2017
- Road Safety Act 1986
- Surveillance Devices Act 1999
- Victorian Data Sharing Act 2017
- Whistleblowers Protection Act 2001
- Working with Children Act 2005
- Working with Children Regulations 2016
- Workplace Injury Rehabilitation and Compensation Act 2013
- Workplace Injury Rehabilitation and Compensation Regulations 2014
- Wrongs Act 1958

### Useful Links

- VTA: <http://www.vta.vic.edu.au/>
- Greg Reiffel HR & IR Consulting: <https://www.gregreiffelconsulting.com.au/>
- AHRI: <https://www.ahri.com.au/>
- Asbestos: <http://www.asbestos.vic.gov.au/>
- Australian Building and Construction Commission (ABCC): <https://www.abcc.gov.au/>
- Australian Health Practitioner Regulation Agency (AHPRA): <https://www.ahpra.gov.au/>
- Australian Human Rights Commission: <https://www.humanrights.gov.au/>
- Australian Taxation Office: <https://www.ato.gov.au/>
- Child Safe: <https://ccyp.vic.gov.au/child-safety/being-a-child-safe-organisation/>

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- Department of Home Affairs: <http://www.homeaffairs.gov.au/>
- The Victorian Equal Opportunity and Human Rights Commission: <http://www.humanrightscommission.vic.gov.au/>
- Fair Work Commission: <https://www.fwc.gov.au/>
- Fair Work Ombudsman: <https://www.fairwork.gov.au/>
- Federal Court of Australia: <http://www.fedcourt.gov.au/>
- Federal Circuit Court of Australia: <http://www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/home/>
- High Court of Australia: <http://www.hcourt.gov.au/>
- JAS-ANZ: <http://www.jas-anz.org/>
- National Disability Service: <https://www.nds.org.au/>
- Standards Australia: <http://www.standards.org.au/Pages/default.aspx>
- Work Safe Australia: <https://www.safeworkaustralia.gov.au/>
- WorkSafe Victoria: <http://www.worksafe.vic.gov.au/>

### Useful Guides (Fact sheets)

The following Fact Sheet links have been checked and are correct as of 11 March 2019. Always check your EBA where you see “\*”.

#### Fair Work Commission

- Agreement making: <https://www.fwc.gov.au/resources/benchbooks/enterprise-agreements-benchbook>
- Annual wage reviews \*
- Appealing a decision
- Anti-bullying: <https://www.fwc.gov.au/resources/benchbooks/anti-bullying-benchbook>
- Dispute resolution \*
- Enterprise Agreements
- Fair Work (Registered Organisations) Amendment Act 2012
- General Protections: <https://www.fwc.gov.au/resources/benchbooks/general-protections-benchbook>
- Hearings and conferences
- Industrial Action: <https://www.fwc.gov.au/industrial-action-benchbook>
- National Employment Standards (NES) \*
- Statutory Declarations
- Unfair dismissals: <https://www.fwc.gov.au/resources/benchbooks/unfair-dismissals-benchbook>
- Unfair dismissals (noncompliance)

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### Fair Work Ombudsman

- Annual leave \*
- Independent Contractors & Employees
- Defence reservists - rights & responsibilities \*
- Workplace Discrimination
- Enterprise Bargaining
- Fair Work Information Statement
- Flexible working arrangements \*
- Industrial Action \*
- Long service leave \*
- Maximum weekly hours \*
- Minimum wages \*
- Modern Awards \*
- Notice of termination & redundancy pay \*
- On-hire employee services - workplace obligations
- Parental leave & related entitlements \*
- Personal / carers / compassionate leave \*
- Public holidays \*
- Protections at Work
- Record-keeping & pay slips
- Right of entry
- Student placements
- Transfer of business
- Unpaid work
- Unfair dismissals

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## **EQUAL EMPLOYMENT OPPORTUNITY (EEO), RECRUITMENT & SELECTION**

### **Equal Employment Opportunity Policy**

#### **Purpose**

Equal Employment Opportunity in the workplace (EEO) means that all employees and prospective employees should be treated fairly in relation to recruitment, promotion, benefits and rewards, regardless of their gender, race, religion, age, marital status, political affiliation, sexual preferences, or disability.

[TAFE] is committed to uphold the principles of EEO by providing a workplace that is free of discrimination and our employees are judged on their skills, qualifications and experience, rather than on factors that have no bearing on their work

The merit principle underlies all [TAFE] people policies and activities.

#### **Roles and Responsibilities**

Employees are responsible for:

- Understanding and complying with the terms of the EEO policy.
- Treating all colleagues and customers with respect and professionalism without regard to non-relevant criteria or differences.
- Promptly informing their manager if there has been a (potential) breach of the EEO policy.

Managers are responsible for:

- Ensuring that the EEO principles and underpinning legislation are applied in the workplace.
- Ensuring all decisions relating to appointment, promotion and career development are made without regard to any matters other than the individual's inherent ability to carry out the job.
- Providing an environment which encourages equal employment opportunities and setting an example by their own behaviour.
- Considering and providing reasonable accommodations where necessary.
- Ensuring their team is aware of [TAFE] EEO policy.

Human Resources are responsible for:

- Ensuring all Managers and existing and potential employees are made aware of their obligations, responsibilities and rights in relation to EEO.
- Identifying matters which do not comply with the principles of EEO and addressing them as promptly and sensitively as possible.
- Dealing with EEO issues in a prompt and sensitive way.
- Providing ongoing support and guidance to all existing and potential employees in relation to EEO principles and practice.

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- Ensure compliance with the *Public Authorities (Equal Employment Opportunity) Act 1990*, including setting in place equal opportunity program(s) and reporting requirements.

**These EEO objectives will be achieved through:**

- Advertising vacancies in a non-discriminatory basis
- Hiring the best person for the job based on set job criteria
- Using fair and reasonable criteria when terminating employees
- Using gender-neutral and non-sexist language in all policy, publications, advertisements and position titles
- Providing training and development opportunities based on work performance and job criteria
- Appraising and promoting employees based on objective assessment of performance and potential
- Ensuring that there is no distinction in terms and conditions of employment for reasons unrelated to the job

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## POSITION DESCRIPTIONS

### Introduction

Among the most fundamental aspects of employee relations are job design and related position descriptions.

Well-designed jobs provide employee satisfaction and optimise productivity. Jobs need to be designed with the understanding that they:

- Are required by the organisation;
- Have relevance and meaning;
- Provide opportunities for professional growth;
- Reflect good management practices and a positive attitude towards employees through an adequately resourced working environment; and
- Provide job satisfaction and remuneration.

A well written position description clearly identifies the nature and scope of the work involved in the job. Position descriptions should be a clear guide for the work undertaken by an employee and may be used as a basis for advertising vacant positions, for staff selection processes, for developing work plans, and for performance evaluations or reviews. The position description also provides a basis for classification and remuneration purposes.

A position description provides an overview of the major aspects of the job. It should include information about how the position fits into the organisation, the major responsibilities or functions of the position (or Key Results Areas), an outline of key selection criteria, and mandatory and desirable qualifications.

Position descriptions should also include the [TAFE] vision and values and may include measurable outcomes against KRA's.

Position descriptions should be developed when there is an apparent need for an additional position within the organisation. They should be reviewed and updated when an existing position becomes vacant, when the requirements of the position change and at annual performance reviews.

### Purpose:

To ensure that all position descriptions within the Institute comply with a standardised format that provides a basis for classification, staff selection and performance review.

### Policy:

- All positions within the Institute will be supported by standard format position descriptions.
- Position descriptions will be developed by line managers in conjunction with the Human Resources Department to comply with the standard format.

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- All new and revised position descriptions will be submitted to the Manager, Human Resources for approval.
- All position descriptions will be written to ensure compliance with legislative and procedural requirements.

### Procedure:

The need for a new position description is determined through creation of a new position or through review of an existing position description.

The position description is prepared by the Supervisor/Line Manager in consultation with the Human Resources Department according to the standard format, including:

- Position title;
- Classification;
- Department and Location;
- Accountability (Reports to);
- Authority (extent of delegation)
- Supervisory responsibility (Reported to) if appropriate;
- Key liaison responsibilities if appropriate; and
- Date of preparation.

In addition to the above points, the position description includes:

- A position summary, describing the purpose, primary function(s) of the position and its location within the organisational structure;
- The major duties and responsibilities of the position;
- The accountability and extent of authority associated with the position; and
- The key selection criteria (skills, knowledge and abilities) and qualifications required.

### Process

The draft position description is developed in consultation with the incumbent or relevant staff.

The draft position description is forwarded to the Manager, Human Resources for approval.

The Human Resources Manager or nominee in consultation with the Supervisor/Line Manager completes any alterations.

The appropriate Line Manager signs off the position description.

In the case of a revised position description, the incumbent signs it off.

The Human Resources Manager or nominee reviews the position description for classification and remuneration purposes.

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### Summary Checklist

- ☐ Need for position description is determined.
- ☐ Position description proforma is obtained from Human Resources Department.
- ☐ Position description is drafted by Supervisor/Line Manager in consultation with incumbent or other relevant staff.
- ☐ Amendments made by Human Resources Manager in consultation with Supervisor/Line Manager.
- ☐ Completed position description signed off by appropriate Supervisor/Line Manager.
- ☐ Where position description is a revision or update, it is signed off by incumbent.
- ☐ Draft Position description forwarded to Human Resources Department for review and classification assessment.
- ☐ Copies of position description kept by Human Resources Department, Supervisor/Line Manager and incumbent.

### Forms

Sample generic position description pro forma.

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### Replacement & Succession Planning

#### Policy

An important aspect of HR planning is being able to forecast and be able to respond to staff movements. Managers should, as a key result area, incorporate this within their business plans. This is essential for Ferguson Plarre Bakehouses which relies heavily on key personnel and minimum staff numbers.

The following table taken from “Human Resource Planning” by James A Walker illustrates the contrast between replacement and succession planning:

Variable	Replacement Planning	Succession Planning
Timeframe	0-12 months	12-36 months
Readiness	Best candidate available	Candidate with best development potential
Commitment level	Designated preferred replacement candidate	Merely possibilities until vacancies occur
Focus on planning	Vertical lines of succession within units or functions	Development of a pool of talent: candidates with capability to take any of several assignments
Developmental action planning	Usually informal, merely a status report	Usually extensive: specific plans and goals set for each person
Flexibility	Limited by the structure of the plans, but in practice, decisions reflect a great deal of flexibility	Plans are conceived as flexible; intended to promote development and thinking about alternatives
Experience base applied	Each manager’s best judgement based on personal observation and experience	Plans are the result of inputs and discussion from multiple managers
How candidates are evaluated	Observation of performance on the job over time; demonstrated competence; progress through the function	Multiple evaluations by different managers of the candidates on varied job assignments; testing and broadening early in careers

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### Procedure

#### Strategic Plan

[TAFE]'s succession plan strategy can be based on the following six factors (adapted from Rothwell, 2001):

1. Establish management commitment to an effective succession plan.
2. Articulate the business case for implementing a succession plan.
3. Identify current and future organisational requirements.
4. Assess individual job performance and future potential.
5. Implement a developmental plan for employees included in the succession plan.
6. Evaluate and revise the plan.

Consider including both the need to identify and develop talent or high achievers; as well provide continuity in all key positions in organisations. Defining what the key positions are in the context of a changing business environment is one of the major challenges in designing an effective plan.

#### Measurement and Evaluation

Rothwell (2001) has adapted the well-known four-level Kirkpatrick training evaluation hierarchy and suggests the following:

##### 1. Participant satisfaction:

This includes evaluating overall satisfaction, satisfaction with each component of the program, including job descriptions, competency models, performance appraisal processes and satisfaction with individual career plans etc;

##### 2. Program progress:

This includes an assessment of how well the program has worked when compared with the stated objectives and how well an individual is progressing through their developmental experiences;

##### 3. Effective placements:

This includes what percentages of vacancies in key positions are filled internally, how quickly are vacancies in key positions filled, how quickly are internal replacements for key positions able to perform to the level required in the position; and

##### 4. Organisational results:

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What successes or failures in the organisational plan are attributable to the succession plan, have there been changes in the gender and diversity profile of employees filling key organisational positions?

### **Assessing staff development needs**

The most effective tool for assessing staff development needs is the performance appraisal and position description.

### **Link the plan to a mentoring program:**

Identify key employees that can act as “mentors” for high achievers and/or succession plans. This will ensure that the employee being trained can have one-on-one guidance and assistance both proactively and on a “as needed” bases.

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### Recruitment & Selection

#### Purpose(s)

The purpose of the [TAFE] Recruitment and Selection Policy is to:

- Recruit and select people who have the appropriate abilities, knowledge and attitudes to meet [TAFE]'s needs; and to
- Ensure appointments at the [TAFE] is the result of a fair process.

#### Policy Statement

[TAFE] relies on the quality of its employees. Selecting the right employee is, therefore, a critical step towards creating and maintaining a productive and efficient organisation.

It is [TAFE] policy to maintain a minimum core staff resource in its operations. Fluctuations in work load are met by employment of temporary or casual employees, after a process of needs analysis and approval from the CEO. Labour Hire/Agency employees are only to be used where there is a justifiable need and only after exhausting other options (eg part-time working additional hours, overtime, etc).

Guidelines and procedures have been developed to ensure sound and objective decisions are made regarding staffing. The procedures should be followed carefully when employing new employees or selecting existing employees for positions within [TAFE].

The recruitment and selection procedures include key steps in the process and should be followed in the order set out. The associated documentation should always be completed as directed and processed accordingly.

Guidelines are designed to assist and guide managers when recruiting and/or selecting staff. If followed, fair and appropriate decisions should result.

It is important that the recruitment and selection procedures meet all legislative obligations such as Equal Employment Opportunity.

The [TAFE] Recruitment & Selection process has been developed to ensure compliance with such requirements.

#### Applications forms

Once the vacancy has been advertised, [TAFE] must be prepared to answer initial inquiries about the position, provide additional information and accept applications. Standard application forms are to be used when recruiting for all positions that are short-listed for interview.

[TAFE] will ask job applicants to fill out application forms which ask for information about the applicant, such as employment history and education.

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The aim of using an application form is to collect information in a standard way which makes comparison and screening of applicants easier. It also ensures that all essential information is provided at a preliminary stage.

The application form also provides that the applicant declares certain things and provides permission for reference checking.

### Advertising

It is the [TAFE] policy to promote from within where possible. As such, Managers should assess all job vacancies and consider advertising internally prior to or concurrently with external advertising. Prior to making the application, employees should be encouraged to discuss the job vacancy with their immediate manager.

Any employee who applies for a vacant position must be considered in the same manner as external applicants. If the employee is not suitable for the position, then the manager must counsel the employee by the provision of positive feedback and encourage the employee to strengthen the apparent weaknesses.

The position description provides the information required to write a suitable advertisement.

Where practical, the “model advertisement template” should be used.

### Filling of Temporary Vacancies

It is [TAFE] policy that all temporary absences of employees be resourced by:

- The working of additional hours by team members;
- A lower classified employee (ie “higher level duties”); or
- External casual hire (eg “temp agency”).

Depending on the length of the absence and the seniority of the position, such absences can give valuable career experience for lower classified employees and link in with succession planning.

Higher level duties will be paid in accordance with the appropriate award/EBA which covers the vacant position.

External appointments should only be considered as a last resort due to budget implications and/or the loss of opportunity for employee development.

It is also essential that team leaders and managers ensure that services are continued in the event of a temporary absence. For example, utilising job rotation or similar methods for ensuring skill sharing (ie contingency planning).

When considering filling a vacancy on a temporary basis, the manager should note their legal responsibilities as set out in the relevant EBA. For example: *Victorian Teaching Staff Agreement 2018*.

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### Responsibilities:

- The “absent” employee, ie the employee who is causing the temporary absence:
  - Must provide sufficient notice of the absence (or resignation).
- The team leader and their manager:
  - Ensures service delivery continuity and budget considerations that may be impacted by the temporary absence (this includes enacting a contingency plan);
  - Seek approval from the CEO; and once the CEO’s approval has been granted;
  - Takes the appropriate action.
- Human Resources provides a letter to the CEO for signature confirming higher duties to be paid and forwards to the employee; and assists with any external appointment.
- The Board, provides approval for any action relating to the temporary absence of the CEO.

### Interviewing

[TAFE] Interviewing Policy is to ensure that any decisions taken to employ people:

- Are uniform across [TAFE];
- Fulfil legislative requirements;
- Are consistent with the [TAFE]’s vision and values; and
- Support [TAFE]’s strategic goals.

The best person for the vacant position will be selected based on merit. This consists of an assessment of their overall level of skill, knowledge, experience and relevant qualifications, in accordance with the requirements of the Position Description.

Recruitment and selection decisions based on irrelevant factors such as a person’s sex, race, disability, age, sexuality or other personal biases or favouritism do not result in the best person being selected for the position and will not be condoned by [TAFE].

[TAFE] is an Equal Opportunity Employer and has a standard and consistent approach to the recruitment and selection of employees in order to provide every suitably qualified person with an equal opportunity to obtain employment with [TAFE].

Any employee perpetrating, condoning or inciting discrimination or harassment in the recruitment or selection process will be counselled and in serious cases, disciplined or dismissed.

### Employee checking

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It is essential that background checks be undertaken of potential employees of [TAFE]. To this end, all offers of employment should be made subject to a satisfactory:

- Reference checks.
- Pre-employment medical (including drugs and alcohol).
- Credentialing (Qualifications/Registration).
- Working legally in Australia check.
- Identity proven (100-point check).
- National Police Check certificate.
- Working with Children check (if required).
- Pre-employment competency / psychometric testing (where required).

It is [TAFE] policy that all employees must comply, where required, with the above checks.

All checks are subject to prevailing legislation (eg Anti-discrimination) and the “inherent requirements of the job” test.

If you require further advice on this requirement, contact Human Resources.

This is to ensure that the [TAFE] recruitment process is rigorous in protecting the health, safety and wellbeing of its employees, clients and resources.

### Forms

- ☐ Advertising template.
- ☐ Applicant response letters.
- ☐ Application for employment.
- ☐ Code of Conduct.
- ☐ Computer access request.
- ☐ Employee handbook.
- ☐ Employment Request.
- ☐ Fair Work Information Statement (from FWA).
- ☐ Health & well-being.
- ☐ Superannuation prospectus (external).
- ☐ Identification (100-point) check.

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- ☐ Induction checklist.
- ☐ Interview questions guide (interview record).
- ☐ Access request.
- ☐ Medical request purchase order.
- ☐ [TAFE] information (eg service guide, annual report, newsletters).
- ☐ Name tag &/or business cards request.
- ☐ Organisational chart.
- ☐ Personal & Banking details.
- ☐ Position description (job specific).
- ☐ Position description template.
- ☐ Probation Appraisal.
- ☐ Probationary period successful conclusion letter.
- ☐ Probationary period unsuccessful termination letter.
- ☐ Recruitment checklist guidance notes.
- ☐ Security card identification request.
- ☐ Statutory declaration template.
- ☐ Tax File Number declaration (from ATO).
- ☐ Telephone directory request.

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### Advertising Procedure

The job advertisement should include the following:

- Title of position.
- Brief details of the Organisation.
- Location of the position brief outline of the main features of the job.
- Summary of the selection criteria.
- Details of how and when to apply.

Advertising of any vacant position should be co-ordinated by Human Resources and no advertising should occur without authorisation from the CEO.

Basically, the advertisement should indicate that anyone who fits the Key Selection Criteria is eligible to apply for the position. It should not give the impression that anyone from racial groups, sex, religion, marital status, age or with any kind of disability is either eligible or ineligible to apply. The advertisement should describe what is required in a candidate for the job, and not imply preferences or non-preferences that may be unlawful. Some occupations have been traditionally male or female, such as mechanic or secretary, so it is important that both men and women may apply when advertising the positions.

Avoid:

- Gender specific terms, like “tradesman”, “cleaning lady”, “headmaster”;
- Specifying sex - eg, “male person”, “young lady”;
- Specifying language requirement unless necessary for the job - eg “English speaking person”, “must speak fluent English”;
- Words that denote specific race - eg “Greek man”, “British subject”, “Australian born” etc;
- Specifying religion;
- Irrelevant job specification that implies one sex, or particular appearance - eg “attractive”, for a receptionist;
- Stating age limits; and
- Requiring marital status - eg “married person”.

Examples of Alternative and Acceptable Phrases:

- Proven experience.
- Demonstrate a high level of knowledge.

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- This position requires a commensurate level of expertise.
- Proven ability and experience.

Examples of Unlawful Advertisements Due to Age Discrimination:

- Direct Discrimination:
  - Wanted - clerical officer, must be between 18-25 years.
  - Wanted - media / PR officer, 25-30 years.
  - Wanted - young energetic salesperson.
  - It is unlikely that this position will suit anyone under 45 years.
- Indirect Discrimination:
  - Wanted - person to manage a hardware store, must have 10 years' experience.

A Good Advertisement will contain the following:

- Title of position.
- Outline of duties or key result area.
- Clear language - no stereotype.
- Essential selection criteria.
- Advise applicant that s/he "applicant must address the essential criteria".
- Advise on special selection criteria techniques.
- Person/position to contact for further information.
- Realistic closing date.
- EEO policy in place.

Avoid words or terms that may become "buzz words", ie:

- Mature.
- Youthful.
- Energetic.
- Vibrant person.
- Junior.

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### Interviewing

#### Short-Listing:

An initial review of applications received will often reveal that some applicants have completely misinterpreted the job. Others are clearly unsuitable in terms of skills and experience in relation to the selection criteria. It is useful, particularly if there are many applicants, to screen out these applications at the pre-interview stage.

When applications for a vacancy are received they are first assessed to determine whether, on face value, they meet the selection criteria for the position. Those which do not meet all the criteria are eliminated from the field, and the applicants notified accordingly.

This process, short-listing, should be undertaken by the Hiring Manager.

#### Aim of Short-listing

Short-listing ensures that interviews are only conducted with those persons meeting the selection criteria. It is particularly useful when many applications have been received, and it is not practical or necessary to interview all applicants.

#### Considerations in Short-Listing

It is advisable to interview all internal applicants. If an internal applicant does not meet the selection criteria, he or she should be counselled at the same time as others are advised of interview times. An explanation should be given as to why he or she will not be interviewed.

Look beyond the applicant's experience in paid employment and consider any voluntary work experience. In the case of women returning to the workforce, consider the skills developed when rearing children and managing a home.

The subjects an applicant has studied at school or in tertiary education may not be directly relevant to the job, but in most jobs what counts is ability and aptitude.

Only skills and experience specified in the selection criteria should be used in the short-listing process.

The hiring manager and other employees who may be involved in the interview process should be involved in short-listing as this is an important step in the selection process.

Where possible and practical, all applicants who meet the selection criteria should be short-listed for interview.

Any special needs of applicants (such as for those with disabilities) should be considered at this point.

#### Interviewing Process

- Provide copies of all applications to all panel members.

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- Distribute copies of selection criteria to all panel members; together with instructions that only those criteria should be used to screen out applicants.
- Convene a panel meeting to discuss the results of the screening process.
- Determine short-list of interviewees.
- Provide counselling to all internal applicants who have not been short-listed.
- If there is only one remaining applicant who meets the selection criteria, it is wise to complete the entire selection process (interview, etc) rather than appoint that applicant immediately. Alternatively, it may be worth re-advertising.

### Interview Preparation Steps

- An interview will be successful, from [TAFE]'s point of view, if it provides the selection panel with the information it required to make the best job appointment. Consequently, the panel should ensure that it is well prepared to make this decision.
- Choose an accessible interview venue which is quiet and arrange for all telephone calls to be held.
- Inform reception of names and interview times of all interviewees and arrange a private place for applicants to wait.
- Choose a chairperson for the selection panel.
- Ensure all panel members have copies of job descriptions and selection criteria and all applications at interviews.
- All panel members should read interviewees' applications prior to interviews.
- Notes should be made regarding each interviewee's compliance with and variance from, the selection criteria.
- Members of the selection panel should develop a question plan - who will ask what, in which order.
- Allow enough time between applicants for panel discussion and review.
- Ensure that furniture is appropriately arranged, for example, do not sit in front of a window with your face in the shadow.

### Plan Questions for the Interview

- You can now plan questions that will assist you to explore the criteria with each candidate. Write your questions down, assessing them against the "Danger Signs" to ensure that none appear discriminatory.
- [TAFE] has many useful templates for this purpose.

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- The use of a question planner will assist you in planning questions that are relevant to the criteria.
- You must be sure to ask each candidate the same types of questions. Some details between candidates might be different, for example, when you are clarifying details from the resume, or asking about previous employment. However, don't neglect to ask each candidate about parts of the resume that need clarifying and about previous employment.
- By planning your questions, and having them written down for the interview, you can ensure that you maintain consistency from candidate to candidate, and that you don't omit any of the questions.
- The question planner can also service as part of the record of the new recruitment process. If your questions are clearly written down against specific criteria, they provide evidence and support of the objectivity of your recruitment procedures.

### Some Do's and Don'ts of Interviewing

- Do:
  - Ensure that your selection panel is well prepared for the interview - remember the applicants will be making a judgement regarding your organisation based on how well your panel handles the interview.
  - Structure your interview process.
  - Make sure that the panel has enough information about the job, and [TAFE]'s operations in general, to be able to give satisfactory answers to all questions.
  - Try and establish a friendly, non-threatening atmosphere.
  - Allow applicants ample time to answer questions.
  - Be aware of the influences of people's cultural backgrounds as these may lead to misunderstandings between the applicant and the panel.
  - Avoid questions which can be answered with a mere yes or no.
  - Make sure that all members of the selection panel are trained in, and apply, EEO policy and provisions.
  - Keep the questions relevant to the job and be consistent with all applicants.
- Do not:
  - Ask questions about marital status or intentions, children or child-minding obligations, credit status, conviction record (unless relevant to the position), relatives or friends working for the organisation, or any other personal information that is not relevant to the job.

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- Make assumptions about an applicant's characteristics based on your own personal beliefs.
- Ask multiple questions - keep it to one question at a time.
- Talk too much - the idea is to get the applicant to talk.
- Ask leading questions.
- Over-emphasise your own ideas and beliefs.
- Dangerous Questions: Steer clear of the "minefield questions" that ask:
  - For details that are relevant only to certain people - eg, women and not to men (gender).
  - Whether the person is married (marital status).
  - Whether a person is pregnant or planning to be (pregnancy).
  - Whether they have children or not, or other dependents at home (status as a carer).
  - What church they go to (religious beliefs).
  - Whether or not the person belongs to a union, political party or any other association (political beliefs, associations).
  - Where the person was born (ethnic background, colour, nationality).
  - Whether he/she has had any previous WorkCover claims (physical impairments) which are not relevant to the job.
  - Whether she/he is under treatment by a psychiatrist or psychologist (psychological impairments).
  - Whether the person has an intellectual disability; (intellectual impairments).
  - Whether the person is HIV positive or has AIDS.
  - What sexual activity the person has engaged in (sexual preference).
  - How old the person is (age)?
  - Details of the person's physical appearance (eg, weight, attractiveness, etc).
  - Whether the candidate is associated with or related to anyone else in the organisation.
- Examples of Dangerous Questions:
  - What is your date of birth?

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- Do you have any children? Are you planning to have more children?
- Are you married?
- Have you ever been under treatment by a psychiatrist?
- Have you ever had a WorkCover claim?
- What nationality are you?
- How much sick leave did you take last year?
- Is there any mental illness in your family?
- Are you HIV positive?
- Are you homosexual?
- Do you have childcare?
- Is your husband/wife employed?
- Which of these would you do if one of the children becomes ill:
  - drop everything and leave work to attend the child;
  - ask permission to attend the child;
  - keep working, and ask the person caring for the child to take care of him\her until you finish work.
- Are you a Christian? (or What is your religion?)
- [TAFE] require someone of normal weight and appearance for this job.
- Are you related to any other staff in this organisation?

### Competency Based Interviewing

Competency Based Interviewing (CBI) is based around the theory that your past behaviour at work is the best indicator of your future work performance.

Questions need to be designed around the specific competencies required to do the job you are interviewing for. These are called key competencies.

A CBI requires the candidate to think of specific examples from their work experience and stops candidates giving answers that they think interviewers want to hear. Each CBI question is based on 3 steps:

1. Understanding the situation the candidate is explaining.

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2. Understanding what the candidate did in the situation which should then demonstrate their level of competence.
3. Understanding what the outcome of the situation was which should then demonstrate how effective their action was.

Therefore, when Competency Based Interviewing it is critical to use probing questions to ensure you receive enough information to rate a candidate's competence. Probes are open-ended questions which make the candidate clarify points. You may need to use all the probes you have, it depends on the candidate's answer.

An example of the structure of a CBI question may be:

Question:

- Can you think of a time when you have worked under pressure?

Optional Probes:

- What was the situation?
- What did you do?
- What was the challenge?
- What was the outcome?

Additional Probes:

- How did you feel about the situation?
- Asking a candidate how they felt will reveal a lot about the way they approached their work and their preferred style of working.

By considering the job specification and the competency definitions you will be able to identify the key competencies for the position. Up to five (5) competencies are usually identified, with two (2) questions on each. For each competency you need to know what the positive and negative indicators are, so you can easily rate the evidence you collect from the interview.

Here are some common key competencies for a position:

- Organisation.
- Team Work.
- Customer Focus.
- Problem Solving.
- Using Initiative.

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- Working Under Pressure / Resilience.
- Flexibility.

Interview questions should not be hypothetical nor theoretical otherwise you will end up with hypothetical and theoretical answers.

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### Employee Checks Policy

#### Purpose

The purpose of this policy is to ensure that the [TAFE] recruitment process is rigorous in protecting the health, safety and wellbeing of its employees, clients and resources.

It is a requirement of [TAFE] that all of its employees, contractors and volunteers be of good character and trustworthy, and be a “fit and proper” in terms of the inherent requirements of the position undertaken.

#### Responsibilities

[TAFE]:

- To ensure that, all hirings, promotions, and/or transfers are carried out in compliance with prevailing legislation, and in a non-discriminatory manner.

Short listed hires/Employees:

- Undertake the checks required by the [TAFE] and answering all questions and completing all documentation in an honest manner.

#### Policy

It is essential that background checks be undertaken of potential employees of [TAFE]. All offers of employment should be made subject to a satisfactory:

- Reference checks.
- Pre-employment medical.
- Credentialing (Qualifications/Registration).
- Working legally in Australia check.
- Identity proven (100-point check).
- National Police Check certificate (where required).
- Working with Children check (if required).
- Pre-employment competency / psychometric testing (where required).

It is [TAFE] policy that all employees must comply, where required, with the above checks.

### Reference Checking Procedure

#### Responsibilities

HR/Hiring Manager is to ensure that all persons engaged by [TAFE] are suitable to carry out the role and will enhance the culture of [TAFE].

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### Procedure

A written or verbal assessment from a nominated referee of a candidate's employment, history, work performance, education and other attributes directly relevant to the selection process.

The reference check is to support the [TAFE]'s recruitment process by ensuring all preferred candidates are screened through appropriate selection tools, including effective reference checks.

### Process

Post interview reference checks must be undertaken before recommending any candidate for appointment. This will normally be done via a structured telephone interview with a minimum of at least two of the candidates' nominated referees using the Reference Check form.

Candidates need to give prior permission to contact their referees and this should be obtained or confirmed at or prior to interview. Where the candidate has not nominated their current or a recent supervisor as a referee they should be asked to do so. In cases where a recent direct supervisor is not nominated, the Hiring Manager/HR should determine a suitable alternate referee. In all instances referees must have worked closely with the candidate, be in a senior role relative to the candidate and be able to comment knowledgeably on the individual's recent work performance.

All interview notes and the Reference Check form will be placed on the employee's file (where successful) and on the Position file (if unsuccessful).

When collecting personal information, the [TAFE] must take reasonable steps to ensure that the information collected is directly related to the inherent requirements of the position filled.

In some instances, written references may be sought prior to interview at the Hiring Manager's discretion. These may be utilised for academic staff selection processes where they may add value to the decision-making process. Requests for written references from nominated referees must be provided to HR with a minimum of at least one week's notice to allow time for referees to be contacted and respond. HR will validate all written references received with the author.

Written references are not mandatory and do not take the place of the requirements for verbal reference checking post interview. Hiring Managers are still required to conduct two verbal reference checks on the recommended candidate. The verbal reference check focuses on verification of details and clarification on matters that have arisen from the interview and other aspects of the recruitment process.

The [TAFE] will not proceed with hiring a candidate if complete reference information is not available. Hiring a candidate without such information poses an unacceptable risk.

Information obtained from a reference check, should be verified through specific examples and corroborated with other sources where practicable. HR should be advised when

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negative information has been received to discuss whether the candidate remains suitable for the position.

### Referees

The referee/s should always include the candidates' current or a recent supervisor. If this is not possible, an explanation as to why a current or recent supervisor cannot be nominated should be included on the Referee Form.

All referees must have worked closely with the candidate and be in a position to comment knowledgeably about the candidate's recent work performance relevant to the position being filled. Categories of referees such as co-workers, colleagues, subordinates and acquaintances are likely to be less unreliable in commenting and predicting subsequent job performance.

### Information in the public domain

Information accessible in the public domain, is information that is obtained from sources such as social networking sites, internet search engines or other sites that freely allow the public to search for information.

Information about a candidate's character, past work performance, employment history, social networking habits, etc. that is found from non-professional and non-authenticated websites via the world wide web is unreliable and therefore should not be used as part of the decision-making process.

Recognised academic websites, professional association websites and websites that legitimately publish research publications and outputs may be searched, to verify a candidate's claims in their application. However, information sourced from these sites should be verified with the candidate or their nominated referee(s) where possible.

### Undertaking Reference Checks

Reference takers must advise the referee that their comments may be requested and if so provided to the applicant.

In cases where the referee is reluctant to proceed on this basis, this may be construed as a potential negative. The applicant should then be requested to provide an alternate referee.

This form must also be signed and dated and returned to HR, together with the notes taken during the reference check.

All information sought from referees must be job related and linked to the selection criteria. Personal information which could be considered discriminatory should not be sought unless it can be demonstrated the information relates to an inherent requirement of the position. Comments or criticisms relating to a candidate's disability, gender, race, or other potential grounds for discrimination are not normally relevant and should be disregarded.

Reference takers should cross check and verify the information contained within the resume and that provided by candidate at interview with referees. Referees should be asked to verify key achievements cited in the candidates resume or at interview which relate to the

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criteria and provide details of these achievements in terms of their success, importance, degree of difficulty and the contribution of the individual to the outcome. Contribution in this instance may encompass their specific part they played in the system.

### Working in Australia Checks Procedure

#### Responsibilities

Responsibility of the job applicant is to:

- Complete an application form when applying for an advertised position with [TAFE], and indicate their citizenship/residency status.
- Provide documentary evidence of their right to work in Australia, as part of the job offer.

The Hiring Manager is to:

- Check the application form to ensure that the applicant has indicated they are not an Australian citizen or restricted in their ability to work in Australia (e.g. they have a valid visa with work rights)

Human Resources:

- Confirm the applicant's eligibility for employment prior to any offer of employment being made or make the offer of employment subject to their eligibility being confirmed.
- Obtain documentation relating to proof of date and place of birth and proof of identity from the recommended applicant prior to or on the day of commencement of the employee.

#### Procedure

The federal Department of Home Affairs (see <http://www.homeaffairs.gov.au/>) provides all up-to-date requirements related to working in Australia. It is essential that [TAFE], when hiring employees, check ALL employees to ensure that they have a legal right to be employed by [TAFE]. That is, only those persons eligible to work in Australia may be employed by [TAFE].

This procedure:

- Sets out the citizenship status and proof of identity requirements for eligibility of appointment to a position in [TAFE].
- That the selection for appointment of employees to all job vacancies within [TAFE] is based on merit.
- An overseas candidate may be sponsored for a role in the case of extreme need and where approved by the CEO.
- ALL Applicants are to provide proof of identity to establish their work rights and eligibility for employment at [TAFE].

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### Eligibility to work in Australia

According to the DIBO website:

- It is the responsibility of all Australian businesses to employ legal workers.
- Legal workers are Australian citizens, permanent residents and people in Australia with a valid visa that allows them to work. This includes New Zealand citizens.
- Not everyone who comes to Australia on a visa can work. A person working without a valid visa, or working in breach of a visa condition, is an illegal worker.
- Australian businesses should check that their workers can work, whether it is paid or unpaid work. This is regardless of whether workers are sourced directly or via a contractor, labour hire or referral [TAFE].
- Australian businesses are expected to take reasonable steps, at reasonable times, to ensure they are not employing, referring or contracting illegal workers.  
[https://www.homeaffairs.gov.au/busi/visas-and-migration/visa-entitlement-verification-online-\(vevo\)](https://www.homeaffairs.gov.au/busi/visas-and-migration/visa-entitlement-verification-online-(vevo)) (VEVO) is a free online service and is the preferred method to check if non-citizens can work.

### Identification Checks Procedure

#### Scope

All [TAFE] hirings/engagement: employees, volunteers and contractors.

#### Procedure

It is a requirement that new employees establish their proof of identity to prove:

- Firstly, that they have a legal right to work in Australia (and therefore for [TAFE]); and
- Secondly that they establish their identity.

Proof of identity for applicants who are Australian citizens is a certified copy of any one of the following from:

- Current Australian passport;
- Current Australian birth certificate (an extract is sufficient) and a current Australian drivers licence or 18+ card; or
- Australian naturalisation or citizenship documents and immigration papers issued by DIAC and a current passport or a current Australian drivers licence.

Proof of identity for this purpose is a certified copy of the following from non-Australian citizens applicants:

- Proof of residency (permanent and temporary) as issued by DIAC, e.g. visa approval; or

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- Current passport

In all cases, the 100 points of identification must be satisfied.

### National Police Checks Policy

#### Purpose

The purpose of this procedure is to give effect to the [TAFE] Employee Checks Policy which aims to assist in the protection of [TAFE] clients, employees and resources.

A National Police Records Check usually includes:

- Court appearances.
- Court convictions, including any penalty or sentence.
- Findings of guilt with no conviction.
- Good behaviour bonds or other court orders.
- Charges.
- Matters awaiting court hearing.

It is not possible to limit the information requested to specific offences.

#### Responsibilities

Human Resources is responsible for:

- Ensuring compliance with this procedure
- Ensuring the requirement for a National Police Records Check is included in the position description (in consultation with the hiring manager) and job advertisement
- Sighting and assessing the original National Police Certificate
- Ensuring the candidate receives a satisfactory Police Records Check outcome before the candidate commences in the specified position (or provides a statutory declaration in the interim)
- Notifying the hiring manager of the outcome
- Ensuring that monitoring processes are in place to check that all employees hold a valid National Police Certificate always
- Reporting to the CEO all applicants with criminal records and whether they were hired or not and the reasons for such decisions

The hiring manager is responsible for:

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- Informing the candidate in the interview that they may/will be required to undergo a Police Records Check and the consequences of not disclosing such information at the interview (automatic rejection of the application – or if employed, dismissal)
- Notifying HR that the candidate has been requested to undergo a National Police Records Check
- Informing a candidate of the decision not to appoint due to an unsuccessful Police Records Check or a WWC check.

The candidate is responsible for:

- [Authorising / agreeing to provide] a National Police Records Check
- Providing truthful information to the hiring manager of any criminal record or pending court appearances/charges

### Procedure

There is no federal or Victorian law that states that it is unlawful to discriminate on account of criminal record, however it has been determined that this is discrimination because of *“...any other distinction, exclusion or preference that has the effect of nullifying or impairing equality of opportunity or treatment in employment...”*

To this extent, it follows that the having a criminal record may not automatically exclude the person from employment/contracting/volunteering, but directly should be based either on legislative requirement and/or the “inherent requirements of the position”.

It is [TAFE] policy that potential and existing employees, certain contractors and volunteers undergo a national police check for all positions.

The pre-employment checks are conducted in recognition of [TAFE]’s duty of care to its employees, clients and resources. Police Records Checks help minimise the risk of the hiring or utilising inappropriate persons.

This procedure is designed to complement [TAFE]’s recruitment and selection, including promotions/transfers.

It is [TAFE] policy that employees provide a National Police Certificate each [x] years, or at [TAFE]’s sole discretion, a statutory declaration declaring any indictable offences that have occurred in the interim.

The following is a step-by-step procedure for obtaining a National Police Records Check.

### Step 1: A Police Records Check is required for all positions at [TAFE]

A Police Records Check is a mandatory requirement for all positions (existing or prospective) at [TAFE].

A Police Records Check must be conducted prior to any offer of employment or promotion to a specified position being made.

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### **Step 2: Ensure the requirement to undergo a Police Records Check is included in the position description and advertisement**

The requirement to undergo a National Police Records Check must be included in the position description and associated documentation and that the following statement must be included in the advertisement:

“Any offer of employment will be subject to a satisfactory National Police Records Check, however a criminal record will be assessed and considered in light of the job requirements”.

### **Step 3: Ensure candidates understand the requirement to undergo a police records check**

The hiring manager must inform the candidates that they will be required to undergo a National Police Records Check. The candidate can be referred to the Victoria Police website for further information.

Candidates should be asked if they have a criminal record and warned that withholding such information will be viewed as dishonest conduct and automatically preclude the applicant/employee from employment.

Due to cost of this process to [TAFE or the applicant?] (ie new employee), a National Police Records Check will only be mandated with the offer of employment – which shall contain the words: “This offer of employment is subject to...agreeing to and passing a National Police check”.

### **Step 4: Application process**

HR will then advise the candidate to complete an application by following the instructions on the Victoria Police website.

The candidate must consent to the Police Records Check being conducted by signing a Victorian Police Consent to Check and Release National Police Record form which shall be included in the employment pack.

Victoria Police does not conduct police checks for candidates residing overseas. International candidates must apply to the Australian Federal Police for a National Police Certificate.

### **Step 5: HR to assess the certificate**

To ensure the protection of privacy, the National Police Certificate will only be forwarded to the HR Department for assessment and filing on a dedicated file “National Police Checks” that shall be stored in a lockable location.

HR will also:

- Confirm the original National Police Certificate has been recorded in the [HRIS/payroll] system
- Assess the National Police Certificate.

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Only HR is authorised to view the National Police Certificate. HR may consult as appropriate with relevant parties to facilitate the assessment of a certificate.

### Step 6: Outcome of a Police Records Check

#### **Satisfactory Outcome**

HR must ensure that National Police Records Check before the candidate commences in the specified position; and there no findings of guilt, outstanding charge or other matters.

#### **Delay in process**

Victoria Police aims to process the National Police Certificate within 10 working days of the receipt of the application. The processing time may be delayed as information may be required from other jurisdictions.

Where the employee is to start before receiving the Police Records Check, a statutory declaration shall suffice.

#### **Unsatisfactory Outcome**

When a National Police Certificate lists a finding of guilt, outstanding charge or other matters, HR will manage the assessment process to determine the candidate's suitability for the position.

HR will assess the record of the candidate based on the following criteria:

- The seriousness of the conviction or offence and its relevance to the job in question
- Whether in relation to the offence there was a finding of guilt but without conviction, which indicates a less serious view of the offence by the courts
- The age of the applicant when the offences occurred
- The length of time since the offence occurred
- Whether the applicant has a pattern of offences
- The circumstances in which the offence took place, for example if it was an offence that took place in a work, domestic or personal context
- Whether the applicant's circumstances have changed since the offence was committed (for example, past drug use)
- Whether the offence has been decriminalised by Parliament or it was an offence overseas but not in Australia
- The attitude of the job applicant to their previous offending behaviour
- References from people who know about the offending history.

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Any decision made for or against an appointment on the basis of a National Police Records Check or statutory declaration (if applicable) must be supported by reasons and fully documented and be supported by the CEO.

### **Step 7: Decision not to appoint due to the outcome of a National Police Records Check**

Where there is a decision not to appoint due to the outcome of a Police Records Check the following actions will be undertaken:

- HR will communicate this outcome to the hiring manager
- The hiring manager shall inform the candidate of the decision and its rationale
- The hiring manager may provide an opportunity for the candidate to discuss the results

### **Working with Children Checks**

#### **Purpose**

The purpose of this procedure is to:

- Give effect to the [TAFE] Employee Checks Policy which aims to assist in the protection of [TAFE] clients, employees and resources; and
- Comply with the *Working with Children Act 2005* (the Act), as administered by the Department of Justice (both Victorian).

#### **Scope**

This policy is derived from the Act, which applies to “Educational institutions for children, specifically:

- State schools (including all primary, secondary, technical and special State schools).
- Non-Government schools (including all primary, secondary and special non-Government schools).
- TAFE colleges and TAFE Divisions of universities providing VCE and/or
- Victorian Certificate of Applied Learning (VCAL) subjects.
- Some adult education providers providing VCE and/or VCAL subjects.
- Other institutions providing children's study or training programs.

#### **Exemptions**

There are several situations listed in the Act where people engaged in child-related work are exempt and do not need a Working with Children (WWC) Check, and therefore are exempted under this procedure:

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- Children under 18 years of age. This exemption does not apply under the Child Employment Act 2003 to people who are under 18 years of age supervising children in employment
- Students who are 18 or 19 years of age are exempt from the WWC Check for volunteer work organised by or held at [TAFE]
- Parents volunteering in an activity in which their child participates or normally participates
- Close relatives, meaning:
  - Parent.
  - Spouse or domestic partner.
  - Step-parent.
  - Mother-in-law or father-in-law.
  - Grandparent.
  - Uncle or aunt.
  - Brother or sister, including half siblings, step siblings, brother-in-law or sister-in-law.
- Teachers who are currently registered with the Victorian Institute of Teaching (VIT); unless the VIT registration is suspended or cancelled, in which case the Teacher must notify in writing every organisation that they are no longer exempt.
- Sworn Victoria Police officer or a sworn Australian Federal Police officer; unless they are suspended or dismissed, in which case they must notify in writing every organisation that they are no longer exempt.
- If the person usually lives and works in another state or territory and is visiting Victoria to engage in child-related work.
- Drivers who hold accreditation under the Transport (Compliance and Miscellaneous) Act 1983.

### Responsibilities

CEO is responsible for:

- Ensuring that the appropriate resources are provided to ensure that those persons who required a WWC check have a valid card and that new starters apply for a Check before they commence working or volunteering.

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- Taking reasonable steps to ensure that [TAFE] does not engage or continue to engage a person in who does not hold a current WWC Check card; or as interim step sighted an application receipt as evidence of having applied for a WWC Check.

Human Resources is responsible for:

- Taking reasonable steps to ensure that [TAFE] does not engage or continue to engage a person in who does not hold a current WWC Check card; or as interim step sighted an application receipt as evidence of having applied for a WWC Check.
- Ensuring the requirement for a WWC is included in the position description and job advertisement.
- Sighting and assessing the original WWC Card (or official receipt of application, as an interim measure only).
- Ensuring that monitoring processes are in place to ensure that all persons, required to do so, hold a valid WWC Card always.
- Reporting to the CEO all applicants with criminal records and whether they were hired or not and the reasons for such decisions.
- Ensuring that confidentiality is maintained, including not providing any person, directly or indirectly, any information acquired from, or in the carrying out of, a WWC Check, including information obtained from the worker or from the Department of Justice

The hiring manager is responsible for:

- Taking reasonable steps to ensure that [TAFE] does not engage or continue to engage a person in who does not hold a current WWC Check card; or as interim step sighted an application receipt as evidence of having applied for a WWC Check.
- Informing the candidate in the interview that they may/will be required to undergo a WWC Check and the consequences of not disclosing such information at the interview (automatic rejection of the application – or if employed, dismissal).
- Check the card's validity on the Department of Justice website.
- record that it has been validated in the [payroll/HRIS] system.

The candidate is responsible for:

- Provision of a WWC Card or, as an interim step, receipt as evidence of having applied for a WWC Check.
- Providing truthful information to the hiring manager of any reason why they may be rejected from obtaining a WWC Card.

### Definitions

- Child: means a person who is under the age of 18 years

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- Interim Negative Notice: is a document that is provided by the Department of Justice to advise a candidate that a final decision has not yet been made
- Negative Notice: is a document that is provided by the Department of Justice to advise a candidate that they will not be given a Working with Children Check Card and should not engage in child-related work
- Working with Children Check Card (also referred to as an Assessment Notice): is a document provided by the Department of Justice that advises that a candidate has been successful in a WWC check and may undertake child-related work

### Procedure

The WWC Check helps protect children from physical and sexual harm. The scheme aims to prevent those who pose a risk to children from working or volunteering with them.

WWC Cards are valid for five (5) years and persons required to hold the WWC Card must ensure that they remain valid at all times whilst at [TAFE].

The person's criminal history continues to be monitored during this time by the Department of Justice.

### The difference between an Employee Check and a Volunteer Check

- An Employee Check allows [TAFE] to engage the person in any paid or voluntary 'child-related work'.
- A Volunteer Check can only be used for voluntary child-related work.
- To change from a Volunteer to an Employee Check the person is required to lodge a new application. It is unlawful to engage in paid employment with a Volunteer Check.

### The difference between a Criminal Check and a WWC Check

- The Working with Children (WWC) Check and a Police Check are two different checks.
- Under *the Working with Children Act 2005* if a person is engaged in child-related work and not exempt, they must have a WWC Check even if they have undergone a Police Check.
- The WWC Check is an ongoing assessment by the Department of Justice of a person's suitability to work with children, examining relevant serious sexual, physical and drug offences in a person's national criminal history and, where appropriate, their professional history.
- The Police Check does not involve an assessment by a government agency. It is a list of offences at a point in time. Eg: to assess a person's suitability for other kinds of work e.g. an accountant or treasurer, looking for fraud offences.

**Note:** See the table setting out the differences that apply to both the WWC and national Police checks.

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### Department of Justice

- The Check examines the applicant's national criminal history for offences that suggest a person may pose a risk to the safety of children. These offences include serious sexual, violent or drug-related crimes.
- The Check also reviews disciplinary findings from professional bodies including the Victorian Institute of Teaching (VIT), the out of home care Suitability Panel and determinations by the Victorian Civil and Administrative Tribunal (VCAT) under the *Health Professions Registration Act 2005*.
- During an assessment, the department can seek information from other sources including:
  - State, territory and federal police forces.
  - Courts, tribunals and prosecuting authorities.
  - Authorised screening agencies.
  - Health treating professionals.
  - The Director of Public Prosecutions.
  - The Department of Human Services.
  - Corrections Victoria.
  - Employers and other organisations.
- Persons who do not have a criminal history or relevant professional disciplinary findings made against them will pass the Check.
- Persons who have a criminal history will be assessed to ascertain whether they will pass the Check and can work with or care for children.
- Applications with relevant criminal histories are split into several categories:
- Category 1 offence
- Will fail the Check will automatically issue a Negative Notice.

### Category 1 offences are when an applicant:

- Has been convicted or found guilty of:
  - Murder.
  - A serious sexual offence as an adult against a child (except a carnal knowledge offence which is a Category 2 offence).
  - A child pornography offence.

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- Similar offences committed outside Victoria.
- Is subject to:
  - Reporting obligations under Part 3 of the *Sex Offenders Registration Act 2004*.
  - An extended or interim extended supervision order under the *Serious Sex Offenders Monitoring Act 2005*.
  - A supervision or detention order or interim detention or supervision order under the *Serious Sex Offenders (Detention and Supervision) Act 2009*.

### Category 2 offence

Will refuse to issue a card unless it is satisfied the person will not pose an unjustifiable risk to the safety of children. Child-related work is not permitted while the department processes the application.

Category 2 offences are:

- Charged with or found guilty of:
  - A serious sexual offence as an adult against another adult.
  - A serious sexual offence as a child against an adult or another child.
  - A carnal knowledge offence.
  - A serious violent offence.
  - A serious drug offence.
  - Trafficking in children.
  - Certain offences under sex offender legislation.
  - Stalking where the victim is a child.
  - Loitering near schools.
  - Similar offences committed outside Victoria.
- A charge pending for any Category 1 or Category 2 offences.

### A Category 3 offence

Will refuse to issue a card. However, the person may do child-related work while the department processes the application.

A Category 3 offence is when an applicant has:

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- A relevant finding made against them by the Victorian Institute of Teaching, the out of home care Suitability Panel or a determination by VCAT under the *Health Professions Registration Act 2005* or Health Practitioner Regulation National Law.
- Been charged, convicted or found guilty of:
  - Certain offences against the Working with Children Act 2005.
  - Recklessly or intentionally causing injury.
  - Wilful and obscene exposure.
  - Some offences committed outside Victoria.
  - Repealed offences including:
    - Wounding or inflicting grievous bodily harm.
    - Assault occasioning actual bodily harm.
    - Behaving in a riotous, indecent, offensive or insulting manner.
    - Wilful and obscene exposure in a public place.

### Distinction between WWC and National Police Checks

	Working with Children Check	Police Check
Does it allow me to work or volunteer with children?	Yes, passing a WWC Check allows you to engage in child-related work for 5 years while your criminal record continues to be monitored.	No.
How does it work?	The WWC Check is an assessment of a person's suitability to work or volunteer with children. It involves an examination of relevant criminal offences and disciplinary findings across a person's lifetime.	A Police Check is only a list of those offences from a person's national criminal history which can be released. There is no assessment or investigation made.
Can I fail?	Yes, you will either pass or fail the WWC Check after your suitability to work with children is examined.	You cannot 'pass' or 'fail' a Police Check; it is simply a list of some offences.
What is checked?	<ul style="list-style-type: none"> <li>• National criminal history</li> <li>• Findings of professional bodies including the Victorian Institute of</li> </ul>	National criminal history.

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	<p>Teaching and the out of home care Suitability Panel</p> <ul style="list-style-type: none"> <li>Relevant determinations of the Victorian Civil and Administrative Tribunal (VCAT) under the <i>Health Professions Registration Act 2005</i></li> </ul>	
What kind of offences are considered?	Offences relevant to the safety of children, such as serious sexual, violent or drug-related crimes.	All offences.
How far back does the Check go?	All relevant offences across a person's lifetime are examined.	Some offences cannot be disclosed, depending on when they were committed. See Victoria Police's Information Release Policy for details.
How long is it valid?	Valid for 5 years unless suspended or revoked.	<ul style="list-style-type: none"> <li>Only current at the time of issue</li> <li>your employer may require you to undergo subsequent Police Checks.</li> </ul>
Is my criminal record monitored?	Yes. Your criminal record continues to be checked for the life of your card. Victoria Police automatically notifies the department of new relevant offences so your suitability to work with children can be re-assessed.	No. A new Police Check is needed to show any new offences.
What happens when I change employer?	The WWC Check card is portable between organisations. However, if you move from voluntary to paid work you must apply for an Employee card and pay the fee.	Employers and organisations have their own policies around requiring Police Checks. You may need a new Police Check when you start a new job.

### Credentials (Qualifications and Registrations) Checking

#### Responsibilities

HR is to ensure that all persons engaged by [TAFE] requiring qualifications, relying on qualifications, or were appointed because of their qualifications/and or credentials are to have these:

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- Confirmed prior to being engaged by [TAFE]; and that once engaged, work within the scope of their qualifications and credentials; and
- Ensure that proof of currency is provided annually.

### Procedure

It is the policy of [TAFE] that all persons engaged by [TAFE] have the appropriate qualifications and credentials to work within their profession.

Therefore, all persons engaged by [TAFE] must have their qualifications and registration confirmed prior to their commencing with [TAFE], with annual checks thereafter.

### Explanatory

With the advent of the internet, qualification fraud has become more prolific. It is therefore important that, where it is a requirement of the position, all qualifications and registrations declared by the applicant be confirmed. This can be easily done by contacting the Registrar of the relevant education facility. This also applies to overseas qualifications, contact details can be obtained from the applicant (noting if he/she is reluctant to supply).

Original source documents must be provided by the applicant and photo-copied by [TAFE] for its records.

Where originals cannot be provided, then “true” copies must be provided, that is declared as per the same requirements as a statutory declaration.

Credentialing is the formal process used to verify the qualifications, experience, professional standing and other professional attributes of professionals for forming a view about their competence, performance and suitability to provide safe, high quality services within their specific professional discipline.

Therefore, persons engaged to practice by [TAFE] are to provide evidence of [TAFE] degrees, fellowships of professional colleges or associations, certificates of service or completion of specific courses, validated competence, confidential professional referee reports and professional indemnity history or status (if applicable).

Where professional registration is required, such registration shall at commencement of employment and annually thereafter. Evidence of currency will be sighted by the HR, and then maintained in the appropriate registration register. This ensures that engagement of persons requiring such registration complies Victorian Government requirements.

### Competency Checks

#### Responsibilities

HR/Hiring Manager is to ensure that all persons engaged by [TAFE] are skilled to carry out the role.

#### Testing/Personality profiling:

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- Ability testing, work sampling and personality profiling may form a part of the selection for any new employee.
- Selection of the tests to be carried out must be directly linked to characteristics or skills key to job performance for the vacancy in question.
- Formal ability tests and personality profiling will only be carried out by those trained and qualified to do so.
- Applicants have the right to refuse to participate in testing/profiling but should be informed this reduces the amount of information about them which can be included in the appointment decision.
- If applicants participate in any testing/profiling it is their right to receive feedback either verbally or in writing. This will need to occur within a week of the testing/profiling.
- The results of testing will be held in the individual's personal file.

### Ability testing

HR may also organise ability testing eg Word processing, excel spread sheets, etc.

These tests must be standardised to ensure fairness, with the testing being designed and administered by a person who is competent to judge the abilities of the applicant, based on job specific criteria.

### Medical & Drug (including alcohol) Testing

#### Responsibilities

HR/Hiring Manager is to ensure that all persons engaged by [TAFE] are skilled to carry out the role.

#### Procedure

All persons selected for temporary, casual and permanent appointment to [TAFE] will be required to undergo a pre-employment medical examination and drug screen to determine fitness to perform the nominated duties.

The medical examination will afford [TAFE] an accurate guidance as to the physical capability of a prospective employee to perform the job for which they have applied

Existing employees may also be required to undertake the specific tests in accordance with this procedure where [TAFE] has concerns for the employee's ability to safely carry out the duties of the position.

Such examination will be conducted by a medical practitioner approved by [TAFE] and will be at [TAFE]'s expense.

In each instance medical examinations are to be carried out appropriate to the employment duties.

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The [TAFE] will provide the approved doctor with a position description and a breakdown of tasks (and their range).

The doctor is to assess an applicant's capacity to undertake the tasks required in the relevant position. The applicant/employee is also required to accurately represent his/her physical condition and special requirements.

Information from [TAFE] and the applicant/employee will then ensure that the doctor is fully informed and able to assess an applicant's suitability for tasks within a given job. The range of assessments for the doctor to apply will not necessarily preclude applicants from employment if they are not totally fit medically.

The doctor is to report and assess within a range of classifications and to comment on special requirements.

The classifications are:

- Suitable for employment.
- Suitable for employment but with a minor problem which will not affect his/her work but which may need protection, or modification of task or workplace
- Suitable for employment in position proposed, may be unsuitable for other positions
- Not suitable for employment in the position or a substantial workers compensation insurance risk. Would place themselves or others at risk if required to perform tasks stated.

The [TAFE] will provide a standard form for the assessing doctor to complete and return to the [TAFE].

### Alcohol and Drug screening

[TAFE] is a drug and alcohol-free workplace. As part of its obligation to ensure a safe environment for other employees and the public, use of drugs of abuse by [TAFE] staff is not acceptable.

### Testing

Alcohol and/or other drugs testing may be carried out on staff:

- Prior to employment: Pre-employment medical
- Random Testing: Testing of staff members, contractors and visitors shall be undertaken and carried out without prior notification
- Cause Testing (suspected of being under the influence of Alcohol and/or other Drugs)
- At the discretion of Senior Management, testing may be conducted on those involved in an incident, injury or "near miss". In the case of an incident, injury or "near miss", persons deemed to have contributed to the action shall be included in the testing.

### Testing by Professionals

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A duly accredited, independent testing [TAFE] shall be utilised to conduct alcohol and/or other drugs testing.

All tests shall be carried out in accordance with the Australian Standard 4308- 2008 (or its successor).

What will be tested?

The most common drugs tested (example only) are:

- Amphetamine type substances.
- Benzodiazepines.
- Cannabis metabolites.
- Cocaine metabolites.
- Opiates.
- Alcohol (must be 0.00 BAC).

Note: For information drug types and possible side effects, see:

<http://www.drugfreeworld.org/drugfacts.html>

### Test Results

#### Negative Result for Alcohol and/or other Drugs:

- For any test that indicates a person is below the prescribed limit for alcohol and/or other drugs, that person may return to work

#### Positive Result for Alcohol:

- A positive test above 0.00 BAC (Breath Alcohol Content) the person will be sent home and placed on sick leave (or unpaid leave if no entitlement for sick leave) until they are proven fit to return to work.

#### Positive Result for Other Drugs:

- A positive test above the prescribed limits in accordance with the Australian Standard 4308- 2008 may result in the person being placed on sick leave (or unpaid leave if no entitlement for sick leave) until the laboratory results are known.
- Transport will be arranged by [TAFE] to the person's home address.
- Where the positive results are consistent with medications disclosed by the staff member they may remain at work at the discretion of the Manager pending the results of the laboratory testing.
- The lab results will be reviewed by Head Office or authorised delegated person who shall contact the staff member and their manager.
- The results will fall into the following categories:
  - Unfit for duties - Suspended from duty until proven fit for work.
  - Fit for duty with restrictions - Duties revised.

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- Fit for work - Return to work.
- A staff member who has tested positive shall be dealt with in accordance with fair process under the [TAFE] Disciplinary Policy.

### **Pre-employment medical positive test:**

- In the case of a positive result from a pre-employment medical, the candidate will be excluded from the employment.
- This decision may be reviewed by [TAFE] senior management taking into consideration any mitigating circumstances.

### **Contractors or Visitors:**

- Where a visitor or contractor returns a positive result, they will be removed from the workplace and their employer shall be notified to arrange transport from the site.

### **Refusal of Testing**

- Refusal to undergo testing shall be considered a positive result.
- This shall result in immediate suspension until the staff member agrees to undertake testing and will be subject to the disciplinary process in accordance with [TAFE] Disciplinary Policy.
- Continued refusal will be deemed a “refusal of a reasonable and lawful instruction” with termination of employment being the most likely outcome.

## **Ensuring Employment Commences on the Correct Legal Process**

### **Preamble**

It is essential that all employees are informed of the [TAFE]’s requirement for a six (6) month probationary period **prior to accepting the offer of employment**. This is not negotiable.

The probationary period should be included in the job advertisement, mentioned at interview and (most importantly) no employee should be allowed to commence work unless they have signed the letter of offer and contract of employment.

The following forms are intended to assist the manager in this regard, and fall into two categories:

- Firstly, those employees who are covered by an award (ie non-managerial roles); and
- Secondly those employees who are not covered by awards (ie managers).

Letters of Offer and Contracts of employment need to be checked to ensure they suit the circumstances of each employee.

Human Resources will ensure that the appropriate letter of offer and/or contract of employment is developed for each relevant situation (eg):

- “Non-award” employees; or
- “Award” employees who are:

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- Permanent Full-time or part-time;
- Temporary full-time or part-time; or
- Casual.

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### Types of Employment

The Institute may choose from many employment options when appointing staff, subject to operational needs of the position and relevant regulations/awards/EBA's.

Principally these modes or types of employment are "ongoing employment" (either part-time or full-time), "fixed term employment" (either part-time or full-time) or "casual engagement (ie generally short-term, ad-hoc arrangements).

Definitions and other regulations for modes of employment are usually contained in Awards, Workplace Agreements and Legislation. Line Managers and Human Resources staff should therefore be familiar with how these apply to their employees.

Recruiters and managers should be alert to the strict criteria set out in industrial instruments (eg *Victorian Teaching Staff Agreement 2018*). It should also be noted that where the *Victorian Teaching Staff Agreement 2018* does not apply, its definitions should be taken as a guide to on which to decide the basis of employment (as it reflects current case law on this very complex area of employment.

By way of illustration, the following is taken from the *Victorian Teaching Staff Agreement 2018*:

#### 11. Types of employment

- 11.1 Full-time employment
- 11.2 A full-time Employee is engaged for 38 ordinary hours per week, plus such reasonable additional hours as may be required from time to time.

#### 11.3 Part-time employment and Pro Rata Application

- (a) A part-time employee engaged for less than 38 hours per week plus reasonable overtime additional hours as may be required from time to time.
- (b) The entitlements in this Agreement apply on a pro rata basis to part-time Employees.
- (c) An Employer must roster a part-time Employee for a minimum of three consecutive hours on each occasion that they work.

#### 12. Modes of employment

- 12.1 The standard mode of employment for an Employee is ongoing. However some fixed term or casual employment will be necessary.
- 12.2 An Employer may engage an Employee in one of the following modes of employment:
  - (a) ongoing employment on a full-time or part-time basis; or
  - (b) fixed-term employment on a full-time or part-time basis as provided for in sub-clause 12.3;
  - (c) casual employment as provided for in sub-clause 12.4.
- 12.3 Employees employed in a position or vacancy created on or after the commencement of this Agreement,

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may only be employed fixed term for the following reasons:

- (a) When an Employee is employed for a fixed period of time to replace another Employee who is on leave or otherwise temporarily absent from the position.
- (b) When an Employee is employed to replace an Employee on parental leave provided that the Employee will be employed for the period of parental leave approved. If the Employee on parental leave returns to duty in accordance with section 77 (reduction of parental leave by agreement), 77A (pregnancy ends (other than by birth of a living child) or child dies) or 78 (Employee ceases to have responsibility for care of child) of the FW Act, the replacement Employee's employment may cease prior to the expiration of the contract provided that 6 weeks' notice of termination is given by the Employer to the Employee.
- (c) When an Employee is employed for a fixed period of time for the predominant purpose to undertake a specific program or project for which funding has been made available for a specified purpose and period of time, and where such funding is in addition or alternative to funding for the continuing program, provided that the Employee is employed to the end date of the funding.
- (d) When the Employer can demonstrate that should a person not be employed fixed term an excess staffing situation will arise.
- (e) Any other reason specifically agreed by the Employer and the Union.

12.4 A casual Employee may be engaged where the employment:

- (a) Is of short duration;
- (b) Is intermittent;
- (c) Is irregular;
- (d) Is informal;
- (e) Has no reasonable expectation of continuing employment;
- (f) Lacks advance commitment or certainty as to the duration of the Employee's employment;
- (g) Has fluctuating hours; and/or
- (h) Is subject to a freedom to accept or reject engagements without disapproval (provided that reasonable notice is given).

12.5 Where an Employee is engaged as a casual Employee they will be paid by the hour.

12.6 Where employment begins as casual employment but becomes characterised as being regular and systematic and the parties have a mutual expectation of continuing

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future employment, then such an employee will be entitled to convert to non-casual employment in accordance with clause 13 of this Agreement or where there is not a suitable ongoing vacancy available, engaged as a fixed term employee in accordance with clause 12.

12.7 Subject to the terms of this Agreement, a casual Employee's periods of regular and systematic employment will count as continuous service for all purposes other than annual leave and personal leave.

12.8 Subject to clause 12.9, an Employee may be engaged on a casual basis for a maximum period of 13 weeks within a 12 month period.

12.9 An Employee may be engaged as a casual Employee for longer than 13 weeks, if the Employee is a genuine industry expert:

- (a) The Employee is an expert in their field; and
- (b) The Employee's skills are in demand and the Employee is unable to commit to regular employment with the Employer.

12.10 When requested to do so the Employer will provide the Employee and the Union with relevant information as to why the position is a fixed term contract or casual.

12.11 An Employer must roster a casual Employee to a minimum of three consecutive hours on each occasion they work.

12.12 A casual Employee may teach a maximum of 21 hours in any given week of employment or by mutual agreement up to 40 hours of teaching in a two week period.

12.13 Casual employees are not entitled to the following benefits under the Agreement:

- (a) notice of termination;
- (b) redundancy pay;
- (c) annual leave;
- (d) paid personal/carers leave;
- (e) paid compassionate leave;
- (f) paid parental leave;
- (g) unpaid parental leave, unless they are an Eligible Casual Employee;
- (h) payment for absence on public holidays; and
- (i) penalty rates, unless specifically provided for in this Agreement.

In short, it the choosing of the appropriate type of employment should depend on the operational needs of the [TAFE], whilst doing so within the prevailing legislative environment.

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### Induction

#### Policy

All employees must undertake an induction prior to commencing work for [TAFE]. "On-site" operational employees will undertake:

- Initial "generic induction" prior to commencing on-site;
- Specific on-site induction; and
- Corporate Induction.

#### Induction

To make a new starter operational and effective as soon as possible, it is essential to induct them to their new job quite thoroughly. Becoming familiar with a new job involves:

- Understanding the tasks that the employee is required to undertake and what is expected of them from their supervisors.
- Feeling at home in the new job.
- Understanding where the new job fits in.
- Feeling part of the [TAFE].

The following is a range of ways that the Supervisor can contribute towards achieving the above.

#### Understanding the Job and What is expected of the Employee:

- Give your new starter a copy of their actual job description. Discuss the contents of it.
- The Supervisor will outline what is expected from the new starter and indicate the areas in which they can assist them.
- What are the goals and objectives of the area? Outline them to the new starter.
- Dress standards.
- Personal telephone calls etc.

#### Feeling at home on the job:

- Introduce him/her to the rest of the staff and explain what their individual jobs are.
- Take them on a tour of the work area and any other areas that will be relevant to their jobs eg toilets, car parking, tea rooms etc.

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- Arrange for them to spend some time in different areas that are relevant to the job. (You would need to arrange this in advance and ensure you have the co-operation of other areas).
- Someone could be made their buddy for a couple of days - someone could be responsible for showing them the ropes. (This needs to be arranged in advance - this could be used as a good developmental exercise for one of your other staff who would benefit from a bit of extra responsibility).

### Furniture and accommodation

- You must consider any furniture and accommodation requirements you might have with the commencement of your new employee. This is a particularly important consideration if your new person is going to be additional to your area, rather than a replacement.
- If you are going to need any furniture or extra accommodation space, you must begin to set the wheels in motion as soon as possible.

### Equipment and Resources

- Most of the equipment and resources that a new employee will require will be standard items that other employees use. These things would be made available to an employee once they commence work.
- The sort of things that you may need to consider prior to a new employee commencing work is organising any equipment or resources that are not readily available, but are necessary for their job. For example, computer hardware, etc.

### Essential Paperwork

- The essential paperwork that you will need to organise relates to getting a new employee on the payroll. The forms that are required to be completed are set out in check-list on the xxxxxxxxxxxxxxxx form.
- These forms must be completed for the new employee on their first day of work; except for the letter of offer and contract of employment which must be signed before the employee commences.

### Preparing your staff

If a new person is about to commence work in your area, it is important that your other staff members are kept informed on the matter. Let people know:

- The name of their new colleague.
- The job he/she will be doing.
- The skills he/she has to offer.

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It is also important to make sure that you will be available on their first day to begin the induction processes. If the supervisor is not available, organise someone else.

### Planning for training

Organising training for a new employee when they start can be very time consuming. One way of making this a bit easier is to plan a little. Some of the things a supervisor might be able to do are:

- Make sure he/she plans some time to spend with the new employee.
- Organise with other staff for them to spend time with the new employee.
- Draw up a schedule of things to cover, along with a time frame, and who is responsible for certain things.

### A Four Month Timetable

Before Commencement:

- Organise pre-employment medical (including hearing test).
- Get payroll forms.
- Organise furniture and accommodation, equipment and personal protective equipment and clothing.
- Get proof from employee of prior training. If no prior training or proof cannot be supplied, arrange such training that is required immediately for the job.

Day 1:

- Complete payroll paperwork.
- Discuss local arrangements re payday, hours of work.
- Complete induction, using the induction booklet and the induction checklist (emphasising OH&S practices and procedures).
- Issue Uniform/PPE.

Week 1:

- Organise equipment and resources.
- Arrange a tour of the work area.
- Reinforce safety practices and procedures.
- Show and discuss task procedures, including the specifications required and the safety elements.

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Week 3:

- Discuss section goals and objectives.

1st month:

- Organise a tour of the [TAFE].
- Review performance.

3rd month:

- Review performance.

5th month:

- Decide on employee's ongoing employment prior to probationary period concluding at six (6) months.

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### Probationary Employment Review

#### Introduction

It is common practice to engage new employees for a trial or probation period. This is usually undertaken to ensure that the employee can fulfil the requirements of the position.

The probationary employment period provides the opportunity to determine whether the employee is suitable for confirmed employment in the position. Action should be taken during the probationary period of employment period to:

- Ensure that job descriptions and performance/conduct expectations are clearly understood;
- Determine and verify the employee's competence and suitability for the position;
- Identify any training and development needs; and to
- Determine whether the employee's appointed will be confirmed.

A probation period must be set in advance, e.g. advised in job advertisement material, at interview and confirmed in the offer of employment.

The duration of a probation period is six (6) months. Probationary periods are not to exceed the six (6) months.

#### Performance Feedback

Throughout the probationary period, the manager should provide the team member with regular feedback on their performance. Feedback can be provided informally or during a formal meeting. When providing feedback whether formally or informally, it is important to address any concerns in a timely manner. So if a team member does something "right" or something "wrong" let them know immediately – do not "save up" any issues for the formal meeting.

Managers shall undertake a probationary period review at:

- After the first week (to see if the team member is "settling in");
- After one (1) month;
- At three (3) months); and
- At least two (2) weeks prior to the completion of 6 months.

This provides both the team member and manager the ongoing opportunity to assess whether basic requirements of the position have been met and to measure performance against criteria such as personal qualities, quality of work, quantity of work, position knowledge, customer service, communication, problem solving and decision making, team work, work ethic and behaviour.

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### Performance Feedback Meetings

- Advise the team member that they may have a support person present at the meeting;
- Try to ensure the meeting takes place in a private location free from interruptions;
- Allow the team member to respond to the issues you have raised and provide them with the opportunity to discuss their performance and behaviour;
- Ensure that the team member's responses to feedback is documented;
- Outline the expectations of the position and if not already done so, describe how the team member can work towards meeting these expectations;
- Encourage the team member to articulate their training/guidance needs and discuss how these can be achieved;
- Set measurable performance goals and if required allow reasonable and mutually agreed timeframes for improvement;
- Set an appropriate review date (no later than 4 weeks after the initial meeting);
- It is important that the team member understands that if work performance does not improve then his or her employment may be terminated; and
- Keep a record of the meeting including dates, what was discussed and the agreed actions or outcomes. Provide a copy of this to the team member.

### Prior to the End of the Probationary Period

Prior to the end of the probationary period, [TAFE] will need to assess whether the team member's employment should be made permanent or whether the team member's appointment be terminated.

### Casual and temporary team members

Casual team members and temporary team members are exempt from a probationary period. This is because, by nature of the type of employment, casual and temporary team members are deemed terminated at the end of their last shift and cannot reasonably foresee an ongoing employment relationship.

However, a casual team member who has been employed for more than 12 months, and whose engagement has been regular and systematic, is eligible to lodge a claim for unfair dismissal. This means that Managers should assess the suitability of a casual team member for continued employment and decide about their continued engagement in the first 12 months of their employment.

### Successful completion of probation

On successful completion of the probation period and review, the relevant manager shall issue a letter to the new team member confirming their ongoing employment.

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### Unsuitable for their role

Where it becomes clear very early that the new team member does not meet the requirements of the position and is unlikely to meet the requirement of the position within the probationary period, there is no need to wait until the end of the probationary period before acting. The decision to terminate the appointment can take place at any time within the probationary period.

If the decision is made to terminate the team member's contract of employment, the team member should be advised of their termination and the reason they are being terminated. They should also be given:

- The appropriate written notice (as contained in the employee's contract) or payment in lieu of notice (usually one (1) week);
- Payment of all accrued entitlements;
- A Separation Certificate; if one is requested;
- A Certificate of Service, if one is requested.

### Extending the probationary period

Probation periods cannot be extended beyond six (6) months. If a team member continues to be engaged after the six (6) month probationary period, they are considered to have completed their minimum employment period and enjoy full rights to take unfair dismissal action.

When reviewing the performance of an employee, the Manager should consider that the behavioural characteristics being displayed are unlikely to improve once the employee completes probation. An employee "on trial" during probation is likely to be motivated to display their best available behaviours. Therefore, it is important to address performance concerns and give the employee a chance to improve so that a manager assessing the employee can gain a reasonable insight into what the employee is capable of and how they fit in to the team.

It is also helpful to ensure employees are informed of the purpose of the probationary period, the expectations of the role and encouraged to seek guidance or clarification on tasks or responsibilities. Team members should also be encouraged to actively assess whether they feel the organisation and position are suitable for them.

### Documentation privacy

Information regarding details of probation should be held in locations relevant to the employee, the Supervisor and the Human Resources Manager (e.g.: employment agreement, position advertisements, position descriptions, interview notes, letters of appointment, work plans). Details of probation reviews are subject to the same confidentiality as other personnel matters, although the employee shall receive copies of all review reports and documentation.

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## **CODE OF CONDUCT & ETHICAL BEHAVIOUR**

### **Preamble**

This Code sets standards of conduct and behaviour expected to be observed by all [TAFE] staff.

Our customers and all stakeholders are entitled to expect that:

- The business of [TAFE] is conducted with efficiency, impartiality and integrity.
- Staff members obey the spirit and letter of the law.
- Responsibility to the business is always to be given absolute priority over the private interests of staff members.

### **Purpose**

The purpose of this Code is to:

- Clarify the standards of behaviour that are expected from [TAFE] staff and contractors in the performance of their duties.
- Provide guidance in areas where staff need to make personal and ethical decisions.
- Not act as a prescriptive formula, but a guide to support staff in their behavioural and decision-making activities whilst working at or representing [TAFE].
- Be applied with good judgement and common-sense.

### **Responsibilities**

About this Code of Conduct and Ethics it is the responsibility of each and every [TAFE] staff member, and those who may work on [TAFE] behalf, regardless of their position within the [TAFE], to:

- Follow and embrace its intent.
- Read and understand the intent and consequences of failing to abide by its terms.
- Speak to their Supervisor to seek clarification on any aspect that appear to be unclear.

### **Intranet and Continuous Improvement**

The intranet is the heart of policy and procedural system. Staff will be inducted into its use and ensure that a good working knowledge of the system is maintained, including seeking out and understanding the contents of documents related to their work.

Staff should also commit to continuous improvement and adopt a best practice approach to the performance of their work. Identify and actively promote appropriate strategies, methods and processes that lead to improved performance.

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### Leadership

[TAFE] demonstrates leadership by actively implementing, promoting and supporting the following values:

- Positive influence, inspiring and empowering others.
- Demonstrating responsiveness by the provision of sound advice, delivering high quality services and encouraging best practice.
- Demonstrating integrity by being honest, using powers correctly, identifying and dealing with inappropriate conduct, avoiding conflicts of interest and developing and maintaining trust.
- Demonstrating impartiality by making decisions that are free of bias, considering all relevant facts and ensuring policies and programs are implemented fairly.
- Demonstrating accountability by being transparent, responsible, using resources efficiently and inviting scrutiny.
- Demonstrating respect by treating others fairly, eliminating discrimination, harassment and bullying, and focusing on improving outcomes.

### Teamwork

Teamwork instead of individualism is encouraged by [TAFE]. Teamwork develops staff, encourages staff to achieve higher standards and satisfaction from their job.

### Ethics and Integrity

Staff are:

- To act with the highest standards of ethics and integrity in dealings with customers, suppliers, creditors, competitors and other [TAFE] staff. This is characterised by being courteous, honest and trustworthy. Staff must not engage in any conduct which brings discredit upon [TAFE].
- In no way criticise or demean the [TAFE], its work or people, including via “social media.”

### Conflict of Interest

Staff must not allow their personal interest to conflict with the interests of [TAFE]. If a staff member does find themselves in this situation they need to advise their supervisor and act to remove the conflict.

### Privacy and Confidentiality

Staff must:

- Ensure the confidentiality and security of information, especially client data and other sensitive information. All files, papers and electronic data should be used and stored at an appropriate level of security.

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- Not use confidential information to gain advantage for themselves or for any other person or body in ways which are inconsistent with their obligation to act impartially nor shall they use such information improperly to cause harm or detriment to any person, body, or [TAFE].

### **Equal Employment Opportunity, Discrimination, Harassment and Bullying**

[TAFE] is an Equal Opportunity Employer. This means that all staffing decisions are based on merit- regardless gender or other non-relevant factors.

Staff are to refrain from any form of conduct, in the performance of their official or professional duties, which may cause any reasonable person unwarranted offence or embarrassment

Staff must comply with the spirit as well as the letter of the law relating to EEO, discrimination, harassment and bullying.

Reference is specially made to [TAFE] policies on EEO; and Anti-Discrimination, Bullying and Harassment and consequences of breaching these policies which may lead to termination of employment.

### **Safe Work Environment**

[TAFE] is committed to providing its staff members with a working environment that is healthy, safe and productive. Whilst [TAFE] is continually taking action to ensure the safety of its staff members, it is expected that each staff member will also take responsibility for their own safety and that of their colleagues.

This also extends to staff attending for work on time and in a fit state to carry out their duties in a safe and efficient manner. This means that the employees must be free, and not under the influence, of the effects of drugs (whether illicit or prescription) or alcohol.

### **[TAFE] Property**

Staff must use [TAFE] resources in a proper manner. Such resources may include (but not limited to): documents and data, cash and credit cards, goods and services, motor vehicles, personal computers and telecommunications equipment.

Goods or items provided or issued by [TAFE] on a personal basis to assist in the undertaking of the staff member's duties remain the property of [TAFE] and staff are to take due care in the use, custody and control of these items and protect them from unauthorised use

### **Time-keeping**

Staff must ensure that timekeeping requirements are met in terms of starting, finishing and set breaks.

### **Dress Standards**

Staff are expected to attend for work dressed in a manner that reflects the professionalism of being a [TAFE] employee. Where supplied, ensure that uniforms/protective clothing is worn when required and maintained in a neat and clean condition.

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### Gifts, Benefits & Hospitality

Staff members must not seek or accept gifts or other benefits that could cause pressure on their judgement or could seem to be a conflict of interest. All such offers should be discussed with the staff member's supervisor.

For guidance, staff are:

- Not to accept gifts of money under any circumstances.
- Able to accept unsolicited gifts or benefits of a nominal value (\$50.00) attached to social and cultural events, promotional activities or visits if the acceptance of the gift or benefit poses no compromise. Gifts above a nominal value of are gifts to [TAFE].
- Where practicable, donate gifts to charitable organisations, insofar that this will not cause embarrassment or harm to the person or entity providing the gift.

### Outside employment

In valuing the expertise of our Staff, [TAFE] recognises that its staff members may engage in paid or unpaid outside employment or private business.

However, it is expected such outside employment will not adversely impact on their ability to fulfil their obligation to [TAFE], or occupational health and safety commitments.

Staff must not use [TAFE] name, reputation or resources (or staff benefits) in association with any outside work or private business.

### Reportable Conduct

The Reportable Conduct Scheme is administered by the Commission for Children and Young People. The Scheme provides for the reporting to the Commission of allegations of reportable conduct, or misconduct that may involve reportable conduct, committed by employees (including volunteers, contractors and office holders) within or connected to [TAFE].

[TAFE] has a reportable conduct policy, which must be followed.

### Whistleblowers – Protected Disclosures

Behaviours or actions that would breach the [TAFE] Protected Disclosures Policy.

### Consequences of Breaching this Policy

Breaches of the Code of Conduct will be viewed seriously and will involve appropriate disciplinary action. This may range from warnings, leading to dismissal. However, no disciplinary action will be taken until after the breach has been investigated and the staff member concerned has had an opportunity to comment on the alleged breach.

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## **ANTI-DISCRIMINATION, BULLYING & HARASSMENT POLICY**

### **Introduction**

[TAFE] is committed to providing a safe, flexible and respectful environment for its employees and other stakeholders, free from all forms of discrimination, bullying, sexual harassment, or racial and religious vilification.

All [TAFE] employees are required to treat others with dignity, courtesy and respect.

By effectively implementing this policy [TAFE] will provide a positive environment for attracting and retaining talented employees.

Bullying, Harassment (including Sexual Harassment), Vilification and Cyberbullying are all forbidden under this Policy. They are also unlawful under state and federal legislation. **Any employee found guilty such behaviour will face serious disciplinary action, including termination of employment.**

This policy provides information and advice on the following:

- Employees rights and responsibilities.
- Additional responsibilities of Directors and Supervisors.
- Merit-based hiring.
- Anti-discrimination.
- Anti-bullying
- Cyber Bullying
- Sexual Harassment
- Racial and Religious Vilification.
- Pregnancy.
- Breastfeeding.
- Transgender employees.
- Equal Opportunity contact officers.
- Employee Assistance Program.
- Issue resolution (complaints process).
- Being accused of workplace discrimination, bullying and/or harassment.
- Victimisation.

### **Scope**

This policy applies to:

- Board members and directors.

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- All staff, including: managers and supervisors; full-time, part-time or casual, temporary or permanent staff; job candidates; student placements, apprentices, contractors and sub-contractors.
- How [TAFE] 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; workplace environment; 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 [TAFE] duties.
- staff treatment of other staff, of clients, customers and other members of the public encountered during their [TAFE] duties.
- Volunteers, who are protected from sexual harassment under the Equal Opportunity Act.

### Employees Rights & Responsibilities

All employees 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 racial and religious vilification.
- 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 and carer responsibilities, disability, religion.
- All employees must:
  - Follow the standards of behaviour outlined in this policy.
  - Offer support to people who experience discrimination, bullying, sexual harassment or vilification, including providing information about how to make a complaint.
  - Avoid gossip and respect the confidentiality of complaint resolution procedures.
  - Treat one another with dignity, courtesy and respect.

### Additional responsibilities of Directors & Supervisors

Directors and Supervisors must also:

- Model appropriate standards of behaviour.
- Take steps to educate and make employees aware of their obligations under this policy and the law.
- Intervene quickly and effectively when they become aware of inappropriate behaviour.

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- Act fairly to resolve issues and enforce workplace behavioural standards, making sure relevant parties are heard.
- Help employees resolve complaints informally.
- Refer formal complaints about breaches of this policy to the appropriate complaint handling officer for investigation.
- Ensure employees 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.

### Merit Based Hiring

All recruitment and job selection decisions at [TAFE] 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.

Wherever possible, at least one person on every employee's selection panel should have had some formal training in equal opportunity.

### Anti-Discrimination

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

Discrimination can occur:

**Directly**, when a person or group is treated unfavourably because of a personal characteristic protected by law (see list below).

For example, a team member is harassed and humiliated because of their race or a team member 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 decisions being based on people who have had a worker's compensation claim rather than using objective selection criteria.

Protected personal characteristics 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.
- Race, colour, descent, nationality, ancestry or ethnic background

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- Age, whether young or old, or because of age in general.
- Gender.
- Employment activity, for example because they ask questions or raise concerns about their rights or entitlements at work.
- Industrial activity, including being a of an industrial organisation like a trade union or taking part in industrial activity, or deciding not to join a union.
- Physical features, such as height, weight, size, hair or birthmarks.
- Religious belief or taking part in religious activity, or not holding a religious belief.
- Pregnancy and breastfeeding.
- Lawful sexual activity.
- Sexual orientation or gender identity, including gay, lesbian, bisexual, transsexual, transgender, and heterosexual.
- Marital status, whether married, divorced, unmarried or in a de facto relationship.
- Political belief or political activity.
- 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.

### Anti-Bullying

Workplace bullying is defined as:

*“Repeated and unreasonable behaviour directed towards a team member or a group of employees that creates a risk to health and safety.”*

**Repeated behaviour** refers to the persistent nature of the behaviour and can refer to a range of behaviours over time.

**Unreasonable behaviour** means behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.

Single incidents of unreasonable behaviour can also present a risk to health and safety and will not be tolerated.

Some examples of workplace bullying are:

- Aggressive and intimidating conduct.
- Belittling or humiliating comments.
- Victimisation.
- Spreading malicious rumours.

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- Practical jokes or initiation.
- Exclusion from work-related events.
- Pressure to behave in an inappropriate manner.
- Unreasonable work expectations.

Bullying can be directed downwards (from supervisors/managers to employees), sideways (between employees) or upwards (employees to supervisors/managers).

In assessing whether behaviour is unreasonable, you should consider if an impartial person observing the situation would think it is acceptable to behave that way.

Workplace bullying is **NOT**:

*“Reasonable management action taken by managers or supervisors to direct and control the way work is carried out is not considered to be workplace bullying, if the action is taken in a reasonable and lawful way”.*

The following are examples of what may constitute management action:

- Performance appraisals.
- Ongoing meetings to address underperformance.
- Counselling or disciplining a team member for misconduct.
- Modifying a team member’s duties including by transferring or re-deploying the team member.
- Investigating alleged misconduct.
- Denying a team member, a benefit in relation to their employment.
- Refusing an employee permission to return to work due to a medical condition.

“Management Action” can be deemed reasonable if:

- The behaviour is related to the management of the job role.
- It is reasonable for the management action to be taken.
- Is carried out in a manner that is reasonable.

That is, the test is whether the management action was reasonable, not whether it could have been undertaken in a manner that was ‘more reasonable’ or ‘more acceptable’.

In general:

- Management actions do not need to be perfect or ideal to be considered reasonable.
- A course of action may still be ‘reasonable action’ even if steps are not.
- Any ‘unreasonableness’ must arise from the actual management action in question, rather than the team member’s perception of it.

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- Consideration may be given as to whether the management action involved a significant departure from established policies or procedures, and if so, whether the departure was reasonable in the circumstances.

At the very least, to be considered reasonable, the action must be lawful and must not be “irrational, absurd or ridiculous”.

### Cyber-bullying

Cyberbullying, like all other forms of discrimination, bullying and harassment, is not tolerated at [TAFE].

Cyberbullying is a serious matter.

To help manage risk, protect users and protect the organisation, an ‘Acceptable Use Policy’ concerning a commitment to the appropriate use of all technologies available at [TAFE] should be observed by all users.

Recommended strategies for individuals to respond to instances of cyberbullying

The following general strategies are recommended to assist those who are victims of cyberbullying activity:

- Report any incidence of cyberbullying or upsetting hostile cyberspace behaviour, including deliberate exclusion; to a Manager or Head Office (see Discrimination, Bullying & Harassment Complaints procedure).
- Do not respond to further messages / postings from the bully and, if possible, block their mobile phone number or email address.
- Keep evidence of any cyberbullying (including screen captures, the bully’s screen name, text and images) to assist in tracking down the bully and as necessary reporting the matter to Police.
- Report any concerns to the administrator of the service used for bullying, whether this be the mobile phone provider if SMS is involved, the website administrator or internet service provider if social networking or chat services are the vehicles for the cyberbullying.
- Seek support from an appropriate and supportive contact such as Head Office or the Employee Assistance Program or colleague.
- Contact Police immediately in cases of possible serious threats to life or physical well-being or where a child protection offence (e.g. child pornography, grooming) has occurred).

### Sexual Harassment

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.

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- 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 requests to go out.
- Requests for sex.
- Sexually explicit emails, text messages or posts on social networking sites.

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.

Sexual harassment is covered 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 employees have the same rights and responsibilities in relation to sexual harassment.

A single incident is enough to constitute sexual harassment – it doesn't have to be repeated.

All incidents of sexual harassment – no matter how large or small or who is involved – require employers and managers to respond quickly and appropriately.

[TAFE] recognises that comments and behaviour that do not offend one person can offend another. This policy requires all employees to respect other people's limits.

### **Racial & Religious Vilification**

Vilification is behaviour that encourages others to hate, disrespect, or abuse a person or group of people because of their race or religion.

This includes spoken, written, online or physical behaviour towards a race or religious group that encourages others to ridicule them, be hateful or violent towards them, damage their property, or make false claims against them.

It is also against the law to give permission or help someone to vilify others, for example by publishing or distributing information about them.

Some behaviour may not be vilification, if it is reasonable and done in good faith, such as publishing a media report about racist behaviour. Some comments or jokes about a person's race or religion may not be vilification, but they could still be discriminatory if they happen in one of the eight areas of public life covered by the law, such as at work.

### **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 or victimisation. Victimisation is against the law.

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For example, a team member is refused a promotion and told that it is because their complaint of bullying last year showed that they are not a team player.

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.

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.

[TAFE] has a zero-tolerance approach to victimisation. Anyone who believes they have been victimised is required to immediately report the matter to their supervisor or the senior manager.

### Pregnancy

[TAFE] strives to provide a working environment that upholds the principles of equal opportunity in providing a workplace that is free of discrimination, including behaviours that may discriminate against a pregnant job candidate or employee.

Pregnancy discrimination tends to be very complex as it embraces three areas of employment law, that is:

- Equal opportunity.
- Industrial relations.
- Occupational health and safety.

Clearly, each situation needs to be viewed on a case by case basis. However, some key points are:

- Any decision relating to the management of the pregnant employee from the time the employee declares her pregnancy through to the time of re-entry to the workplace, must be taken in the light of the industrial relations framework under which the employee works. In most cases this will be the Fair Work Act 2009 (Commonwealth).
- Fair Work Act 2009 has a provision for “transfer to a safe job” in respect to pregnancy. If this is not practical then, the manager or supervisor should seek advice from head office.
- Equal Opportunity legislation protects the pregnant woman from being treated less favourably than others in the same or similar circumstances because of her pregnancy. It is also discriminatory if an employer imposes an unreasonable requirement on an employee that she cannot meet because of her pregnancy.
- Such protection applied to job applicants; employees; women on maternity leave; through to termination of employment.

It is unlawful to:

- Fail to interview or recruit a job applicant because of her pregnancy.

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- Dismiss or retrench an employee because of her pregnancy.
- Transfer a pregnant employee to a lower paid job or deny promotion because of her pregnancy.
- In any way treat her less favourable than others because of her pregnancy or denying her a benefit of employment or subjecting her to any detriment because of her pregnancy.
- It is wise for the employer to treat the employee on maternity (and for that matter paternity) leave much the same way as if they were at the workplace. For instance, they would receive copies of newsletters; general correspondence given to all employees; advice of job vacancies; advice of relevant training programs.

The pregnant woman may request a change of duties based on medical advice. There can be clear occupational, health and safety obligations should this occur.

In addition, equal opportunity legislation would make the employer responsible for taking every reasonable care to accommodate the medical needs of the employee by working with the employee and her treating doctor.

### Breast-feeding

[TAFE] strives to provide a working environment that upholds the principles of equal opportunity in providing a workplace that is free of discrimination, including behaviours that may discriminate against a job candidate or employee that requires consideration due to breast-feeding responsibilities.

The right of women to breastfeed in public without discrimination is enshrined in law. That means breastfeeding is permitted at work, at public venues, in shops and on public transport.

Insofar as is reasonably practical, [TAFE] shall do all it can to accommodate an employee's wish to express breast milk, such as:

- Being flexible with when and how long is taken for breaks (eg Grizzly Engineering a time-in-lieu system for the employee).
- Arrange for a private office where the employee can safely and with privacy express breast milk.
- Ensure that other employees do not discriminate against the employee because of pregnancy or breast feeding.

### Transgender employees

[TAFE] is committed to providing a safe, supportive and respectful environment for staff, customers, clients and members of the public regardless of their gender identity.

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

[TAFE] is committed to providing an inclusive environment for all staff. [TAFE] values diversity among its staff and will not tolerate discrimination against employees based on their gender identity.

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### Staff rights and responsibilities

It is against the law to discriminate against someone based on their gender identity. Under the Equal Opportunity Act, gender identity refers to a person of one sex identifying as a member of the other sex by assuming characteristics of the other sex on a genuine basis. This may be through medical intervention, style of dressing or otherwise; or because the person is living, or seeks to live, as a member of the other sex.

It is also against the law to discriminate against a person of indeterminate sex (an intersex person) who identifies as a particular gender.

All staff have the same rights and responsibilities when it comes to discrimination based on gender identity.

All incidents of discrimination – no matter how large or small or who is involved – require employers and managers to respond quickly and appropriately.

### Definitions

**Sex** refers to being male, female or intersex.

**Transgender:** ‘Transgender’ is an umbrella term that refers to a person whose gender identity is different from their physical sex at birth, or the physical sex assigned to them at birth.

**Transitioning** refers to the process where a transgender person commences living as a member of another sex. This is sometimes referred to as the person ‘affirming’ their gender because transitioning means the person starts living in what they identify as their true gender. This may occur through medical intervention, style of dressing, or anything else that indicates an intention to commence living permanently as a member of another sex.

Individuals may transition in different ways. For example, not all will choose to have sex affirmation surgery for a range of reasons including the availability, cost and desire for surgery.

### Examples of discrimination based on gender identity:

- Deliberately using incorrect names or pronouns (such as ‘he’ instead of ‘she’).
- Invasive, inappropriate questioning about a person’s physical characteristics or their sex life (this may also constitute sexual harassment).
- Any form of harassment or bullying, including ridiculing or ignoring someone because of their gender identity.
- Denying someone training and promotion opportunities because of their gender identity.
- Changing the nature of someone’s job, such as taking someone off customer service duties, because of their gender identity.

### Transitioning employees

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[TAFE] will develop a formal plan in consultation with transitioning employees if the employee wishes to do so. The content of the plan should be determined through discussions between management staff, the employee and any other support people the employee would like to attend.

Transition plans will include information relating to name changes, dress code, and the use of toilets and other facilities.

[TAFE] will also develop a management plan for the whole workplace. The management plan may include relevant information gathered from the process of developing a personalised transition plan for individual employees and include information on:

- Support for all staff members.
- Communicating relevant information to other employees.
- Protecting privacy and confidentiality for transitioning employees.
- Dealing with any questions or concerns from employees.

The aim of a management plan is to ensure transitioning employees are treated with respect and dignity, any concerns from employees are addressed, and the workplace remains free from discrimination, harassment and unfair treatment.

### Privacy and confidentiality

Employees must respect privacy and confidentiality in relation to transgender employees.

### Use of toilets and facilities

Employees are entitled to use toilets and other facilities that are appropriate to their affirmed gender. Any staff members who have concerns about the use of toilets and facilities should raise these with the Equal Opportunity Contact Officers or with management.

### Equal opportunity contact officers

- Contact officers are staff members who have been trained to provide confidential and impartial information and support to help staff make an informed decision about how to try to resolve an issue.
- Contact officers will not solve the problem for you, but they can be a very useful sounding board for you to reflect on your situation, provide a new perspective and help you make a practical and effective decision that meets your needs.
- The contact officers at [TAFE] are [list names and contact details.]

### Employee Assistance Program

[TAFE] employees may be entitled to a certain amount of free, professional counselling from our employee assistance program. To access the employee assistance program, contact Human Resources.

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Employee assistance program counselling is confidential and an employee's discussions with a counsellor will not be communicated back to [TAFE]. Employee assistance program counselling is available free to [TAFE] employees regardless of whether the issue is related to a workplace problem or some other issue for the employee's.

### Issue Resolution (Complaints) Procedure

This procedure applies to all [TAFE] employees, customers, suppliers, contractors and visitors and provides information on how an employee who believes that they have been subjected to discrimination, bullying and/or harassment can deal with the issue.

It does not apply to issues such as safety, or management action for poor work performance or conduct, which are covered by the [TAFE] Grievance Policy.

### Responsibilities:

#### The Complainant:

- Must read the [TAFE] Anti-Discrimination, Bullying & Harassment Policy to ensure that the complaint is warranted.
- Document, in as detailed manner as possible, the substance of the complaint, including but not limited to:
  - Time and date of the alleged offence.
  - The name of the alleged offender.
  - A description of the alleged offence (direct quotes are extremely helpful).
  - Names of witnesses who can corroborate the alleged offence.

The absence of witnesses does not weaken your entitlement to lodge a complaint.

**Note:** There are severe penalties for making a false or malicious complaint with the intention of causing mischief or harm. Such penalties may include disciplinary action (including termination of employment) and legal action for slander and/or defamation.

#### The Investigator:

Is to follow this procedure.

### Recording Information

All complaints shall be documented by the Investigator and / or Contact Person and placed on the COMPLAINTS FILE, which shall be retained by the Head Office Manager.

Unless relating to a disciplinary matter (or such other relevant reason), this documentation should not be placed in an employee's personnel file.

### Victimisation

Disciplinary Action will be taken against anyone who victimises or retaliates against an employee for reporting or making a complaint about unacceptable workplace behaviour.

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### Making a Complaint

If you believe that you have been subjected to discrimination/bullying/harassment, you may either attempt to resolve the complaint either **informally** or **formally**.

It should be noted that it is not a requirement to exhaust the informal process prior to making a formal complaint.

### Whom to Contact for making a Complaint

You may contact one of the following people (or more, if needed).

- Human Resources.
- Your manager/supervisor.
- Employee who is the nominated EEO contact person.
- Health & Safety Representative.
- Relevant State Equal Opportunity & Human Rights Commission.
- WorkSafe Victoria.
- Union.
- Fair Work Commission.

Advice and (where necessary) investigations may be carried out by a person with the relevant skills and experience nominated by [TAFE].

### What will happen if you make a Complaint or Report?

Any complaints or reports of discrimination/bullying/ harassment will be:

- Viewed seriously and acted upon without delay.
- Where necessary, investigated thoroughly, impartially and confidentially.

[TAFE] will act immediately on these complaints.

### Key Principles Underpinning the Complaints Process

- An employee making a complaint in “good faith” will not be disadvantaged in their employment (See “informal” and “formal” complaint section).
- All complaints shall be treated seriously and any employees who genuinely believe they have been subjected to discrimination/bullying/harassment should report this to their manager or another senior person without delay.
- Complaints will be acted on in a prompt manner, as early intervention can assist in resolving issues in a timely/fair manner.
- All employees involved in the complaint shall be entitled to:
  - A support person (i.e. colleague, family, etc). at interviews; and/ or
  - Access to the “Employee Assistance Program”

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- The investigating officer shall:
  - Not have been involved in the issue of the complaint and shall act impartially always.
  - Keep all parties involved in the process informed of the resolution process, its progress and expected timelines.
- Confidentiality is to be maintained within reason.
- All complaints are to be documented including a record of the investigation and meetings/interviews.
- The principles of natural justice shall be followed, in that:
  - Any allegation should be investigated promptly.
  - The alleged offender should be treated as innocent unless the allegations are proved to be true.
  - All allegations must be put to the alleged offender.
  - The alleged offender must be given a chance to explain his or her version of events.
  - If the complaint is substantiated, any disciplinary action to be taken must be commensurate with the seriousness of the matter (ie the “punishment should fit the offence”).
  - Mitigating factors should be considered when considering disciplinary action.

### **Informal Complaint Procedure**

Informal action is usually appropriate where:

- The allegations are of a less serious nature, but the individual subjected to the unacceptable behaviour wants it to cease; or
- The individual subjected to the unacceptable behaviour wishes to pursue an informal resolution; or
- The parties are likely to have ongoing contact with one another and the complainant wishes to pursue an informal resolution so that the working relationship can be sustained.

An employee is not required to exhaust informal attempts at resolution before formal action commences.

### **Options for the Complainant who wishes to deal with issue Informally**

Some of the procedures by which an employee can seek to resolve the issue informally are:

- Seek advice from an appropriate contact person on how to deal with the matter themselves (Some people are genuinely unaware that their behaviour has caused offence).
- The individual who has faced discrimination, bullying or harassment asks their supervisor to speak to the alleged offender on their behalf. The supervisor privately conveys the individual’s concerns and reiterates Grizzly Engineering policy to the alleged offender.

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- A supervisor or manager observes unacceptable behaviour in the workplace and takes independent action, even though no complaint has been made.

### Formal Complaint Process

Formal procedures are usually appropriate where:

- The complainant wants to make a formal complaint from the start.
- Informal attempts at resolution have failed.
- The complainant has been victimised.
- The complaint involves serious allegations of misconduct and informal resolution could compromise the rights of the parties.
- The complaint is against a senior of Grizzly Engineering and formal procedures are needed to ensure that the complainant is not victimised or disadvantaged.
- The allegations are denied, and the complainant wishes to proceed with an investigation to substantiate the allegation/s.

Formal procedures should focus on proving whether a complaint is substantiated.

### Formal procedures shall involve the following steps:

1. Investigation of the allegations.
2. **Application of the principles of natural justice.**
3. Making a finding as to whether the discrimination, bullying or harassment occurred.
4. Submitting a report with a recommended course of action to the appropriate decision-maker (senior management).
5. Implementation of an appropriate outcome.

### Investigating the Allegations:

To ensure consistency and fairness, the investigator shall fully document all steps in the formal complaint:

- The complainant is interviewed, and the allegations are recorded in writing.
- The allegations are conveyed to the alleged offender in full.
- The alleged offender is given the opportunity to respond and defend themselves against the allegations.
- If there is a dispute over facts, statements from any witnesses and other relevant evidence are gathered.
- A finding is made as to whether the complaint has substance.
- A report documenting the investigation process, the evidence, the finding and a recommended outcome/s is submitted to the decision-maker.

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- The decision-maker implements the recommended outcome/s or decides on an alternative course of action.

Both parties should be permitted to have a support person, advocate or other representative at any interviews or meetings.

The formal complaint should not be dismissed because no one saw or heard the incident/s occur. Given the nature of these offences, there are often no direct witnesses to alleged acts of discrimination, bullying and harassment. Those responsible for investigating complaints are to consider all available evidence, including any surrounding evidence, and make their finding on the balance of probabilities.

The following type of evidence may be relevant:

- Supporting evidence provided by a medical practitioner, counsellor, family, friend or co-team member.
- Supervisor's reports and personnel records (e.g. unexplained requests for transfer of shift changes, sudden increase in sick leave).
- Complaints or information provided by other employees about the behaviour of the alleged offender.
- Records kept by the complainant.
- Whether the evidence was presented by the parties in a credible and consistent manner
- The absence of evidence where it should logically exist.

### Possible Outcomes

If the complaint is substantiated and outcomes may include any or a combination of the following:

- Counselling.
- Disciplinary action (e.g. warning or dismissal).
- Disciplinary action against the person who complained if there is strong evidence that the complaint was vexatious or malicious.
- Formal apologies.
- Conciliation/mediation conducted by an impartial third party where the parties to the complaint agree to a mutually acceptable resolution.
- Re-crediting any leave taken because of the discrimination, bullying or harassment.

Outcomes will depend on factors such as:

- The seriousness and frequency of the discrimination, bullying or harassment
- The weight of the evidence.
- The wishes of the complainant.
- Whether the offender could have been expected to know that such behaviour was a breach of policy.

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- Whether there have been any prior incidents or warnings for similar offences.
- If there is insufficient or inconclusive evidence to decide whether discrimination, bullying or harassment occurred, the investigating officer shall:
- Remind those involved of expected standards of conduct.
- Arrange for further training and awareness-raising sessions for employees.
- Monitor the situation carefully.

It is important to ensure that the outcome of a substantiated complaint does not disadvantage in any way the person who made the complaint.

### **Being accused of workplace discrimination, bullying and/or harassment**

Being accused of bullying someone can be upsetting and come as a shock but it's important to be open to feedback from others, and to be prepared to change your behaviour. Keep the following points in mind:

Don't dismiss the complaint out of hand

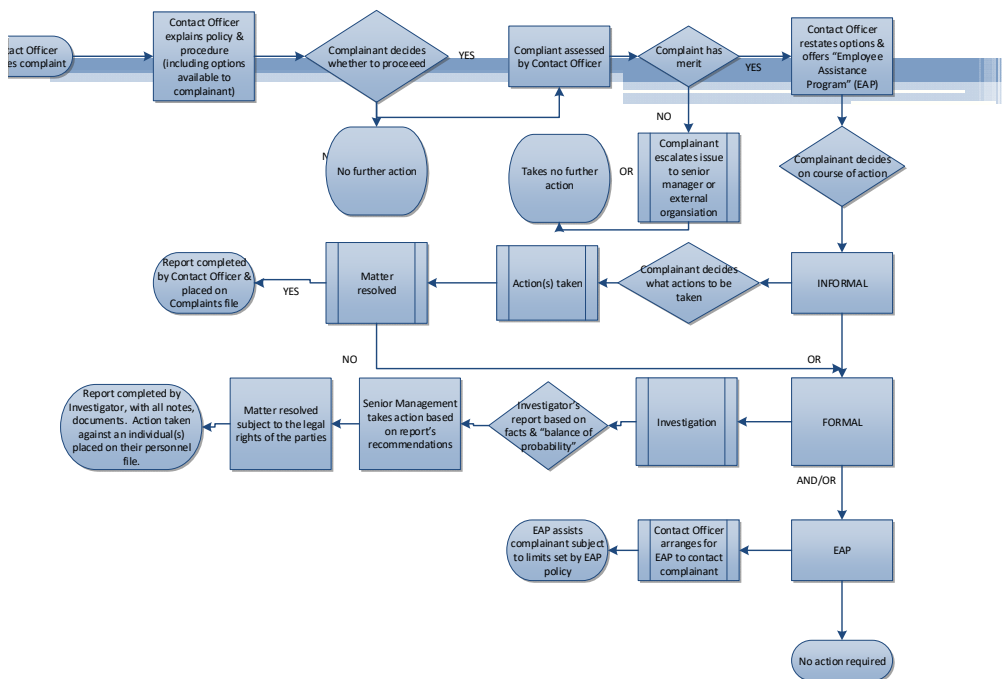
- If someone approaches you about your behaviour, try to remain calm and avoid aggravating what is likely to be an already difficult situation.
- Listen carefully to the concerns expressed. Apologise for causing offence and discuss how you might work together more effectively.
- The other person is more likely to share their views with you if you choose a neutral space and ask open questions without attempting to justify your behaviour. Even so, the other person may not be comfortable speaking to you. If you do receive feedback, reflect on the information you have been provided and decide how you will react or modify your behaviour.
- If you do not understand the complaint, discuss the matter with someone you trust. This might be your manager, colleagues, friends or a counsellor engaged through Grizzly Engineering employee assistance program. Any discussion should be strictly confidential.
- If you believe you are being unjustly accused, or the complaint is malicious, you should discuss this with your manager or human resources. It may be that an informal discussion between you, the person making the allegation and a third party will solve the problem.

Stop doing anything that causes offence

- Stop the behaviour complained of and review what you are doing. It maybe you have upset other colleagues who have not complained.
- If you are found to have bullied someone after their objection to your behaviour was made known to you, the fact you persisted will make the offence more serious if disciplinary proceedings commence.

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## Complaints flow-chart



## **LEAVE OF ABSENCE & PUBLIC HOLIDAYS POLICY**

### **Purpose**

This policy defines the various leave entitlements for employees regarding sickness, absence and other leave. The [TAFE] encourages employees to establish a balance between their working and personal lives. Effective leave management is important to the operation of the [TAFE]. Supervisors and employees are accountable for ensuring leave management plans are in place.

This policy reflects the provisions of the *Victorian TAFE Teaching Staff Agreement 2018*.

### **General Provisions**

For the purposes of determining an employee's entitlement to leave, the following shall apply:

- Except for casual entitlements contained elsewhere in this policy under, an employee under this Part shall not include a person engaged as a casual.
- Service shall not include:
  - Any period of unpaid leave other than that which may be recognised as service by the [TAFE];
  - Any period of service after the date from which a pension is payable under the provisions of the State Superannuation Act 1988 (Vic) or of such other pension schemes as may apply where the employee retires on the grounds of age or ill health until re-employed by an [TAFE] respondent to this award.

No employee during any period of paid leave shall engage in any employment for hire or reward.

[TAFE] shall not employ a person who known to be on any period of paid leave from another employer.

### **Annual leave**

An employee shall be entitled to twenty days annual leave for each twelve-month period of continuous service, or on a pro rata basis for any period of service which is less than twelve months.

Annual leave shall accrue from the date of commencement at the rate of 1.67 days for each completed month of service.

Annual leave shall be taken in accordance with the *Victorian TAFE Teaching Staff Agreement 2018*, which also includes provisions for "excess annual leave".

Annual leave, including leave taken more than the leave credits accrued, shall be taken at a mutually agreeable time having regard to the operation of the [TAFE], provided that a request for leave including a request for leave of four weeks duration or for single day absences not exceeding, in aggregate, 10 days per annum, shall not be unreasonably refused.

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Annual leave that has accrued and has not been taken shall be paid in full to the employee upon expiration of the employee's employment.

Where an employee's employment is terminated, and that employee has taken more paid annual leave than would have been accrued (ie is in "deficit"), [TAFE] may recoup the amount of paid annual leave more than the leave accrued from the employee's final pay (or such other agreed method).

### Annual Leave Loading

The *Victorian TAFE Teaching Staff Agreement 2018* provides the following:

An annual leave loading of 17.5% of 4 weeks ordinary time earnings will be paid to full-time Employees. Employees who are employed on a part-time basis and/or for less than a full calendar year are entitled to pro-rata application of this clause.

The loading shall be paid in the first pay in December of each year, or such other date as may be determined by the Employer, in respect of the calendar year 1 December to 30 November.

Upon termination of employment with the Employer an Employee will be paid the annual leave loading on a pro rata basis.

### Personal/carer's leave

These provisions apply to full time and part time employees.

#### Amount, use and accumulation of personal/carer's leave

A full-time Employee is entitled to 15 days' (114 hours) paid personal/carer's leave per year of service. This entitlement accrues progressively and accumulates from year to year.

Paid personal/carer's leave will be available to an Employee when they are absent because of:

- personal illness or injury; or
- personal illness or injury of an Immediate Family or household member who requires the employee's care or support; or
- an unexpected emergency affecting an Immediate Family or household member; or
- the requirement to provide ongoing care and attention to another person who is wholly or substantially dependent on the employee, provided that the care and attention is not wholly or substantially on a commercial basis.

### Absence on public holidays

If the period during which an Employee takes paid personal/carer's leave includes a day or part-day that is a public holiday in the place where the Employee is based for work purposes, the Employee is taken not to be on paid personal/carer's leave on that public holiday.

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### Unpaid personal/carer's leave

Where an Employee has exhausted all paid personal/carer's leave entitlements, the Employee is entitled to take unpaid carer's leave to provide care or support in accordance with the circumstances outlined in this section.. The Employer and the Employee may agree on the period of unpaid leave. In the absence of an agreement the Employee is entitled to take two days' unpaid carer's leave for each occasion.

### Casual Employees — caring responsibilities

A casual Employee is entitled to be unavailable to attend work or to leave work:

- if the casual Employee needs to care for a member of the Immediate Family or household of the Employee who are sick and require care or support, or who require care due to an unexpected emergency or the birth of a child; or
- upon the death in Australia of an Immediate Family or household member.

The Employer and the casual Employee may agree on the period for which the casual Employee will be unavailable to attend work. In the absence of an agreement the casual Employee will be entitled to not attend work for up to two days per occasion. The casual Employee is not entitled to any payment for the time they do not attend.

The Employer may require the casual Employee to provide satisfactory evidence to support the entitlement to not attend.

### Notice and evidence requirements

An Employee must give the Employer notice of taking leave under this clause. The notice:

- must be given to the Employer as soon as practicable (which may be a time after the leave has started); and
- must advise the employer of the period, or expected period, of the leave.

The Employee must, if required by the Employer, give the Employer evidence that would satisfy a reasonable person that the leave is for a reason specified in this section.

### Requirement /o attend a medical practitioner

Where an Employee has been on personal leave for at least 6 weeks or in any other case, the Employer reasonably believes that an Employee's state of health may make the Employee a danger to themselves or other Employees, students or other persons at the workplace, the Employer may require the Employee to absent themselves from duty on personal leave until a registered medical practitioner approved by the Employer examines the Employee and provides a report to the Employer.

The direction by the Employer must not be for a period of more than 10 working days unless the Employee unreasonably refuses to attend a medical examination. When this occurs the Employer may direct the Employee to absent themselves from duty on personal leave until the Employee attends the medical examination.

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If the medical report discloses that the Employee is unfit for duty, the Employee will be granted such further personal leave as the medical report indicates is necessary.

If the medical report discloses that the Employee is fit for duty, or the Employer is otherwise satisfied that the Employee is fit to resume duty, the personal leave debited as a result of a direction under this clause will be restored and the Employee repaid any salary or wages lost as a result of the direction.

### Recognition of prior service for personal leave

The Employer will recognise the cumulative personal leave credits from the immediate prior employment at any Victorian TAFE Institute, Victorian University or Victorian public sector entity that recognises TAFE service (or any other previous employer as may be agreed between the Employee and the Employer at the time of the Employee's appointment).

Any claim for recognition of cumulative personal leave must be made within six months of the date of appointment.

For the avoidance of doubt, any service recognised prior to the commencement of this clause is not disturbed by this clause.

### Compassionate leave

#### Entitlement

An Employee, other than a casual Employee, is entitled to 3 day's paid compassionate leave on each occasion when a member of the Employee's Immediate Family, or a member of the Employee's household:

- contracts or develops a personal illness that poses a serious threat to their life; or
- sustains a personal injury that poses a serious threat to their life; or
- dies.

#### Taking compassionate leave

An employee may take compassionate leave for a particular permissible occasion if the leave is taken:

- to spend time with the member of the Employee's Immediate Family or household who is suffering from a personal illness, or sustained the personal injury referred to in sub-clause 37.1(a); or
- after the death of the member of the Employee's Immediate Family or household.

An Employee is not required to take compassionate leave in respect of a permissible occasion consecutively.

Compassionate leave will not accrue from year to year and will not be paid out on termination of the employment of the Employee.

### Payment for compassionate leave (other than for a Casual Employee)

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Upon satisfactory notice and evidence, the Employer will grant compassionate leave for up to three days without loss of pay to any Employee on each permissible occasion as described in this section.

### Unpaid Compassionate Leave

An Employee, including a casual Employee may take unpaid compassionate leave by agreement with the Employer.

In addition to the other provisions of this clause, Employees of Aboriginal or Torres Strait Islander descent may be granted paid and unpaid leave in relation to the death of a member of their immediate family or extended family.

### Notice and evidence requirements

An Employee who is taking Compassionate Leave under this clause must give notice to the Employer as soon as practicable (which may be at a time after the leave has started) and must advise the Employer of the period, or expected period, of the leave.

An Employee who has given the Employer notice of taking Compassionate Leave under this clause must, if required by the Employer, give the Employer evidence that would satisfy a reasonable person the leave is taken for a permissible occasion in circumstances specified in this section.

### Parental leave

#### Summary of parental leave entitlements

Parental leave entitlements in this clause are summarised in the following table:

	Paid Leave	Unpaid Leave	Total
<b>Primary Caregiver</b>			
More than 12 months' service	Up to 14 weeks	Up to 38 weeks	Up to 52 weeks
Less than 12 months' service	Nil	Up to 52 weeks	Up to 52 weeks
<b>Eligible Casual Employee</b>	Nil	Up to 52 weeks	Up to 52 weeks
<b>Secondary Caregiver</b>			
More than 12 months' service	Up to 2 weeks	Up to 52 weeks	Up to 52 weeks
Less than 12 months' service	Nil	Up to 52 weeks	Up to 52 weeks
<b>Eligible Casual Employee</b>	Nil	Up to 52 weeks	Up to 52 weeks

#### Entitlement to paid and unpaid parental leave

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Employees, including Eligible Casual Employees, are entitled to unpaid parental leave in accordance with the National Employment Standards. The entitlements set out here are supplementary to the entitlement under the National Employment Standards.

An Employee, other than a Casual Employee, who is entitled to take parental leave under the National Employment Standards is entitled to take a portion of the leave as paid leave in accordance with the following:

- If the Employee is a Primary Caregiver, 14 weeks' paid parental leave; and
- If the Employee is a Secondary Caregiver, 2 weeks' paid parental leave.

Only one parent can receive Primary Caregiver paid parental leave entitlements in respect of the birth or adoption of their Child. An Employee cannot receive Primary Caregiver paid parental leave entitlements:

- if the Employee's Spouse is, or will be, the Primary Caregiver at the time of the birth or adoption of their Child.
- if the Employee's Spouse has received, or will receive, paid maternity leave, Primary Caregiver entitlements, or a similar entitlement, from the Spouse's Employer; or
- if the Employee has received, or will receive, Secondary Caregiver parental leave entitlements in relation to their Child.

Only one parent can receive Secondary Caregiver paid parental leave entitlements in respect of the birth or adoption of their Child.

An Employee, other than a Casual Employee, will be entitled to up to 52 weeks' unpaid parental leave subject to complying with the notice and evidence requirements set out in the NES regardless of their period of service.

### Calculation of pay for the purposes of parental leave

The calculation of weekly pay for paid parental leave purposes will be based on the average number of ordinary hours worked by the Employee over the preceding three years. The calculation will exclude periods on unpaid parental leave.

The average number of weekly hours worked by the Employee will then be applied to the annual salary applicable to the Employee's classification and salary point at the time of taking parental leave to determine the actual rate of pay whilst on paid parental leave.

However, an Employee who reduces their time fraction to better cope during pregnancy will not have their subsequent paid parental leave reduced by the effect of that reduction.

### Halfpay

The Employee may elect to take any paid parental leave entitlement at half of the pay calculated by the application of this clause for a period equal to twice the period to which the Employee would otherwise be entitled

### Commonwealth paid parental leave

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Paid parental leave entitlements are in addition to any payments which may be available under the Commonwealth Paid Parental Leave Scheme.

### **Returning to work at a reduced time fraction**

An Employee may request to return to work at a reduced time fraction until the Child reaches school age in order to assist the Employee in reconciling work and parental responsibilities. After the Child reaches school age the Employee will resume their Substantive time fraction unless the Employee and Employer agree otherwise.

Where an Employee wishes to make a request, such a request must be made as soon as possible but no less than ten weeks prior to the date upon which the Employee is due to return to work from parental leave.

### **Consultation and communication during parental leave**

Where an Employee is on parental leave and a definite decision has been made to introduce significant change at the workplace the Employer will take reasonable steps to ensure that the Employee is included in the process.

It is the Employee's responsibility to notify the Employer of any change of address or other contact details which might affect the Employer's capacity to contact the Employee.

The Employee will take reasonable steps to participate in discussions with the Employer and to respond to the Employer's written documentation about the significant change.

### **Extended family leave**

An Employee who is the Primary Caregiver and has exhausted all parental leave entitlements may apply for unpaid extended family leave as a continuous extension to the parental leave.

The Employee must make an application for extended family leave each year.

The Employee is not entitled to paid parental leave whilst on extended family leave.

Upon return to work the Employer may reallocate the Employee to other duties.

### **Replacement Employees**

Before an Employer engages a person to replace an Employee on parental leave the Employer must inform the person of the temporary nature of the employment and of the rights of the Employee who is being replaced.

### **Long service leave**

#### **Ongoing and fixed-term Employees**

A full-time Employee accrues long service leave at the rate of 1.3 weeks for each completed year of Continuous Service with the Employer and will be entitled to access the long service leave entitlement, on a pro rata basis, after 7 completed years of Continuous Service with the Employer.

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- An Employee with 7 or more completed years of Continuous Service is, on termination of their employment, entitled to payment for the balance of their accrued long service leave as at the date of termination.
- Where an Employee with 4 or more completed years of Continuous Service dies or whose service ceases on account of:
  - retirement; or
  - ill-health; or
  - redundancy;

the Employer will pay to the Employee, or the Employee's estate or representative, a sum equal to 1.3 weeks leave in respect of each completed year of Continuous Service calculated to the day of death or day of cessation.

An Employee granted long service leave will be paid:

- where the Employee's ordinary hours of work have been constant, at the Employee's Base Rate of Pay;
- where the Employee's ordinary hours of work have varied, at the Base Rate of Pay for the Employee's average time fraction calculated over the total period of service; or
- where the Employee has been in receipt of a payment at a higher classification or higher level for a period of 3 or more months at the time the long service leave is to commence and payment at the higher classification or higher level would have continued but for the Employee taking long service leave, at that classification or remuneration level.

An Employee may request and the Employer may agree for long service leave to be taken at half pay for double the period.

Where a public holiday occurs during a period of long service leave the day will be taken as a public holiday and will not be deducted from the long service leave entitlement of the Employee.

Long service leave is to be taken at a mutually agreeable time having regard to the operational requirements of the Employer provided that a minimum of 6 months' notice of taking leave must be provided unless otherwise agreed between the Employer and the Employee. Subject to the required notice being provided, leave will not be unreasonably refused.

Where an Employee has accrued in excess of 20 weeks long service leave the Employer may initiate the following steps to reduce the Employee's long service leave balance to an acceptable level:

- The Employer and Employee, through discussion, may agree that the Employee will take leave which would reduce the balance to an agreed level.
- In the absence of an agreement, the Employer may direct the Employee to take leave at a particular time that would reduce the long service leave credit to no less than 13 weeks at the time the leave period has concluded. The Employer must give the Employee at least 6 months'

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written notice of the direction to take leave.

An Employee must not work for hire or reward whilst they are taking long service leave.

Subject to the Employee making the claim referred to below, an Employee's prior Continuous Service at any Victorian TAFE Institute, Victorian University or Victorian public sector entity that recognises TAFE service (or any other previous employer as may be agreed between the Employee and the Employer at the time of the Employee's appointment) will count towards their Continuous Service for the purpose of determining their entitlement to long service leave under this clause, except for:

- any period of service for which payment in lieu of long service leave has been made by a previous
- employer or for which an Employee has an entitlement for payment in lieu by a previous employer; and
- any period of sen/ice that preceded a break of more than 12 months in the Employee's Continuous Employment.

An Employee must make any claim for recognition of prior service within six months of the date of appointment. The Employer must, as soon as possible after the date of the Employee's appointment, but no later than 12 months from that date, notify the Employee in writing as to the amount of prior service recognised towards the Employee's Continuous Service for long service leave purposes.

For the avoidance of doubt, any service recognised prior to the commencement of this clause is not disturbed by this clause.

### Casual Employees

Casual Employees will accrue long service leave in accordance with the Long Service Leave Act 1992 (Vic) (or its successor).

Notwithstanding, any service which a Casual Employee performed while the 2009 Agreement applied to their employment (which excluded casual employees (within the meaning of that agreement) from long service leave) will not count towards their qualification for long service leave or the amount of leave to which they are entitled.

### Emergency response leave

An Employee may be granted up to 38 hours paid leave in circumstances where an Employee is requested by an Emergency Service of which they are a member to attend an emergency that is causing or threatens to cause damage or injury to life, property or stock. The Employer may approve further leave with or without pay where the need is of such a magnitude as to warrant special consideration.

This provision applies to casual Employees who would have continued to be engaged but for the emergency response. For this class of Employee, where no loss of wages would have occurred, the entitlement of the Employee will be that of a right to return to their former position.

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### Court Attendance leave

An Employee required to appear and serve as a juror in any court will be granted leave at the Base Rate of Pay for the period during which the attendance of the Employee at court is required.

An employee under a subpoena or order, shall be entitled to attend the relevant jurisdiction as part of their official duties, without loss of pay.

To obtain approval for leave under this clause, a leave application must be supported by a copy of the notification that the Employee has attended the court.

Any payment made to the Employee for serving as a juror during their ordinary hours of work must be repaid to the Employer, less an amount for reasonable expenses actually incurred.

### Family violence leave

#### Introduction

Employers respondent to this Agreement recognise that Employees sometimes face situations of violence or abuse in their personal life that may affect their attendance or performance at work. Therefore the Employers are committed to providing support to Employees who experience family violence.

Leave for family violence purposes is available to Employees who are experiencing family violence, and also to allow them to be absent from the workplace to attend counselling appointments, legal proceedings and other activities related to, and as a consequence of, family violence.

Family violence includes physical, sexual, financial, verbal or emotional abuse by a family member as defined by the Family Violence Protection Act 2008 (Vic).

Family violence leave is available to all Employees with the exception of casual Employees. Casual Employees are entitled to leave without pay for family violence purposes.

#### General Measures

Evidence of family violence may be required and can be in the form of a document issued by the Police Service, a Court, a registered health practitioner, a Family Violence Support Service, district nurse, maternal and health care nurse or lawyer. A signed statutory declaration can also be accepted as evidence.

All personal information concerning family violence will be kept confidential consistent with the relevant Employer's policies and appropriate legislation. No information will be kept on the Employee's personnel file without the express written permission of the Employee.

No adverse action will be taken against an Employee if the Employee's attendance or performance at work suffers as a result of experiencing family violence.

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Employers will identify contacts within [TAFE] who will be trained in family violence and associated privacy issues. Employers will advertise the names of the family violence contacts.

An Employee experiencing family violence may raise the issue with the immediate supervisor, a family violence contact, Union delegate or Human Resources contact. The immediate supervisor may seek advice from Human Resources if the Employee chooses not to see Human Resources or family violence contact.

Where requested by an Employee, the Human Resources contact will liaise with the Employee's manager on the Employee's behalf, and will make a recommendation on the most appropriate form of support to provide in accordance with this section.

[TAFE] will develop guidelines to supplement these family violence provisions and which detail the appropriate action to be taken in the event that an Employee reports family violence.

An Employee experiencing family violence will have access to **20 days per year of paid special leave** following an event of family violence and for related purposes such as medical appointments, legal proceedings and other activities related to family violence. This leave is not cumulative but if leave is exhausted consideration will be given to providing additional leave. This leave will be in addition to existing leave entitlements and may be taken as consecutive or single days or as a fraction of a day and can be taken without prior approval.

An Employee who supports a person experiencing family violence may utilise their personal/carer's leave entitlement to accompany the person to court, to hospital or to care for children. [TAFE] may require evidence from an Employee seeking to utilise the personal/carer's leave entitlement.

### Individual Support

In order to provide support to an Employee experiencing family violence and to provide a safe work environment to all Employees, [TAFE] will approve any reasonable request from an Employee experiencing family violence for:

- temporary or ongoing changes to the span of hours or pattern of hours and or shift patterns;
- temporary or ongoing job redesign or changes to duties;
- temporary or ongoing relocation to suitable employment;
- a change to the telephone number or email address to avoid harassing contact;
- any other appropriate measure including those available under existing provisions for family friendly and
- flexible work arrangements.

Any changes to an Employee's role should be reviewed at agreed periods. When an Employee is no longer experiencing family violence, the terms and conditions of employment may revert back to the terms and conditions applicable to the Employee's substantive position.

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An Employee experiencing family violence will be offered access to the Employee Assistance Program (EAP) and/or other available local support resources. The EAP will include professionals trained specifically in family violence.

An Employee who discloses that they are experiencing family violence will be given information regarding current support services.

### More Information

If you or someone you know is experiencing domestic violence, get help by calling:

- 000 if you, a child, or another person is in immediate danger.
- 1800 RESPECT – 1800 737 732.
- Employee Assistance Program (EAP) – XXXXXXXXX.
- Relationships Australia – 1300 364 277.
- Mensline – 1300 789 978.
- Human Resources – XXXXXXXXX.
- Lifeline - 131 114.

### Support Checklist for Employees

Please discuss your individual needs with your manager. Your manager will send this form to Human Resources for actioning.

Employee Name / Date		
Is an Employee Safety plan required?	Provide details:	
Does the corporate directory need to be updated?	Provide details:	
Does Essentials need to be updated? (e.g. remove/include spouse details)	Provide details:	
Is a carpark required?	Provide details (location, duration etc.):	
Is a change to work location required?	Provide details:	
Are changes to work hours required?	Provide details:	



Is a change of position required?	Provide details:
Is leave required?  (Leave request to be actioned by supervisor. Leave may be used to:  Attend medical and/or counselling appointments;  Obtain legal advice;  Seek assistance from other support services;	Provide details (leave type, duration etc.):
Is return to work support required?	Provide details:
(e.g. rehabilitation case manager, return  Is EAP contact required?  (Note: the employee, manager and employee's colleagues may benefit from EAP contact)	Yes / No
Signed by employee:	

### Defence reserve service leave

An Employee required to complete Defence Reserve Service may be granted leave for up to 4 weeks or 28 calendar days in a year commencing on 1 January.

On recruitment or for initial training as a member of the Defence Reserve an Employee may be granted leave for up to 2 weeks or 14 calendar days. This leave is restricted to the Employee's first year of Defence Reserve Service.

With the exception of the additional two weeks on recruitment or for initial training, leave can be accumulated and taken over two years to enable the employee to undertake training as a member of the ADF Reserves.

An Employee may apply for additional Defence Reserve Service leave which the Employer may refuse or grant as leave subject to all the circumstances.

The Employee will consult with the Employer regarding the proposed timing of the leave and will give the Employer as much notice as possible of when Defence Reserve Service for which leave is required will take place. Failure to provide reasonable notice will be grounds for the leave to be refused.

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Where the base salary, excluding allowances, received by the Employee from the Australian Defence Force or Defence Reserve Service during the Employee's ordinary hours of duty is below the Employee's salary under this Agreement, the Employer will, unless exceptional circumstances arise, pay to the Employee make up pay to the level of the Employee's salary under this Agreement for the period of the Defence Reserve Service leave.

### Cultural and Ceremonial leave

#### NAIDOC Week Leave

An Employee of Aboriginal or Torres Strait Islander descent is entitled to one day of paid leave per year to participate in National Aboriginal and Islander Day Observance Committee (NAIDOC) week activities and events.

NAIDOC week leave will not accrue from year to year and will not be paid out on termination of the employment of the Employee.

#### Leave to attend Aboriginal community meetings

The Employer may approve attendance during working hours by an Employee of Aboriginal or Torres Strait Islander descent at any Aboriginal community meetings, except the Annual General Meetings of Aboriginal community organisations at which the election of office bearers will occur.

#### Leave to attend Annual General Meetings of Aboriginal community organisations

The Employer may grant an Employee of Aboriginal or Torres Strait Islander descent accrued annual or other leave to attend Annual General Meetings of Aboriginal community organisations at which the election of office bearers will occur.

#### Ceremonial leave

Ceremonial leave may be granted to an Employee of Aboriginal or Torres Strait Islander descent for ceremonial purposes:

- connected with the death of a member of the immediate family or extended family (provided that no Employee shall have an existing entitlement deduced as a result of this clause); or
- for other ceremonial obligations under Aboriginal and Torres Strait Islander lore.

Where ceremonial leave is taken for the purposes, up to three days in each year of employment will be with pay. Paid ceremonial leave will not accrue from year to year and will not be paid out on termination of the employment of the Employee.

Ceremonial leave is in addition to compassionate leave.

#### Sabbatical leave

On application, the Employer may grant an Employee sabbatical leave of one year every 5 years on 80% salary subject to the Employee agreeing to have their annual salary reduced by 20% for the relevant work period preceding the leave and the Employee entering an agreement with the Employer covering the terms and conditions of the sabbatical leave.

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Unless otherwise agreed the leave will be taken immediately following the completion of the relevant work period during which the salary was reduced.

Sabbatical Leave will count as service for all purposes.

### Public holidays

An Employee, other than a Casual Employee, is entitled to be absent on a Public Holiday without loss of pay. A Casual Employee is entitled to be absent on a Public Holiday without pay.

The following are Public Holidays:

- New Year's Day (1 January);
- Australia Day (26 January);
- Labour Day (Victoria);
- Good Friday;
- Easter Saturday;
- Easter Monday;
- ANZAC Day (25 April),
- Queen's Birthday;
- Melbourne Cup Day;
- Christmas Day (25 December),
- Boxing Day (26 December); and
- any other day, or part-day, declared or prescribed by or under a law of Victoria to be observed generally within Victoria, or a region of Victoria, as a public holiday.

If, under (or in accordance with a procedure under) a law of Victoria, a day or part-day is substituted for a day or part-day that would otherwise be a Public Holiday, then the substituted day or part-day is instead the Public Holiday.

Subject to agreement between the Employer and a majority of affected Employees, a Public Holiday other than a day prescribed above may be observed, If this occurs, the day agreed becomes the Public Holiday and the actual Public Holiday becomes an ordinary working day. The Employer will advise the Union in writing within seven days of any such agreement.

An Employer may request an Employee to work on a Public Holiday, if the request is reasonable.

If an Employer requests an Employee to work on a Public Holiday, the Employee may refuse the request if:

- the request is not reasonable; or
- the refusal is reasonable.

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In determining whether a request, or a refusal of a request, to work on a Public Holiday is reasonable, the following must be taken into account:

- the nature of the Employer's workplace or enterprise (including its operational requirements), and the nature of the work performed by the Employee;
- the Employee's personal circumstances, including family responsibilities;
- whether the Employee could reasonably expect that the Employer might request work on the Public Holiday;
- whether the Employee is entitled to receive overtime payments, penalty rates or other compensation for, or a level of remuneration that reflects an expectation of, work on the Public Holiday;
- the type of employment of the Employee (for example, whether full-time, part-time, or casual);
- the amount of notice in advance of the Public Holiday given by the Employer when making the request;
- in relation to the refusal of a request--the amount of notice in advance of the Public Holiday given by the Employer when refusing the request;
- any other relevant matter.

### Public Holidays

Employees shall be entitled to the following holidays without loss of pay:

- New Year's Day, Good Friday, Easter Saturday, Easter Monday, Christmas Day and Boxing Day; and
- The following days, as prescribed throughout the state of Victoria: Australia Day, Anzac Day, Queen's Birthday and Labour Day and Melbourne Cup Day; and
- If any other day or days as may be gazetted in addition to or in substitution of any of these days by proclamation or Act of Parliament.

Provided that:

- When Christmas Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 27 December.
- When Boxing Day is a Saturday or Sunday, a holiday in lieu thereof shall be observed on 28 December.
- When New Year's Day or Australia Day is a Saturday or Sunday, a holiday in lieu thereof shall be observed on the next Monday.

Subject to agreement between the [TAFE] and most affected employees, a public holiday other than the day prescribed above may be observed. If this occurs, the day agreed becomes the award holiday and the actual holiday becomes an ordinary working day. The [TAFE] shall advise the union in writing within seven days of any such agreement.

**NOTE: The following are not NES/Award/EBA entitlements.**

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### Study Leave Policy

#### Purpose

This Policy outlines the conditions and principles that apply to study leave at [TAFE]. Study leave is designed to encourage and support employees to undertake tertiary studies on a part-time basis in order to enhance their opportunities for career progression and professional development.

#### Eligibility

All employees who currently hold a continuing or fixed term appointment are eligible to apply for study leave upon successful completion of probation.

Performance must be considered to be satisfactory. An employee who has been officially advised that his/her performance is unsatisfactory is not eligible to apply for commencement of study time or continuation of study time until the performance is deemed to be satisfactory.

#### Approved Courses of Study

Study leave applies to part-time studies delivered in any mode, i.e. self-paced, distance or on-campus.

To be approved, the course or nominated subjects must be relevant to the employee's current appointment.

In circumstances where the applicant can demonstrate that the nominated course or nominated subjects relate to their career development or potential employment within [TAFE], study leave may be approved if supported by their manager.

#### Study Time Entitlement

The maximum entitlement for study leave is X hours per week, for each week in the academic session.

- Study leave will cease outside of academic sessions.
- If study is self-paced, the amount of approved study leave is based on the number of weeks in the normal academic session.

Full-time employees are eligible to apply for up to X hours per week in each academic session.

Part-time employees are eligible to apply for a proportional (pro rata) amount of the maximum entitlement per week in each academic session. The amount is based on their current employment fraction.

If an employee reduces their study load per session or undertakes less than the standard part time load of their course, they must inform their manager, who will review their approved amount of study leave.

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### Use of Study Leave

Study leave may be used for private study, research, travel and attendance at compulsory lectures and practical classes held during work hours or residential schools.

Under normal circumstances, study time is an expendable grant which, if not used at the nominated time, is considered lost, i.e. study leave that is not used does not carry over to another week during the academic session.

Study leave may only be used as an extended period for the purpose of attending residential schools, providing the amount does not exceed the maximum entitlement for the academic session.

Where a staff member requires additional time for study they may apply for flexitime leave (if eligible), annual leave or leave without pay.

In addition to the maximum entitlement, staff are also eligible to apply for special leave to attend and travel to/from examinations.

Study leave is not intended to cover short staff development activities that are conducted in-house or externally.

### Conditions

Approval of study leave is subject to the convenience and needs of [TAFE], the work area's operating requirements and the individual making satisfactory progress with their studies.

The course of study must be agreed to as part of the employee's current development plan.

In any circumstance where an employee fails a subject, the staff member will be required to demonstrate why study leave should be approved in future.

Study leave will not be approved for the purpose of repeating a failed subject.

Specific periods of study leave approved in each academic session must be re-negotiated at the commencement of each new session and if course and/or work requirements change.

Employees approved under this scheme are required to provide a copy of their subject/module results to their manager and regularly report on progress.

An initial application for study leave must be accompanied by the course enrolment details/offer of admission along with the subject details for the first academic session of study.

A copy of subject/module results must be attached to each ongoing application for study leave in addition to the subject enrolment details for the new session.

In any situation where an agreement is not reached between the employee and their manager in relation to the approved amount of study leave, the relevant Executive or equivalent will determine the final amount of approved study leave.

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### Responsibility of Managers

Managers are required to monitor progress and arrange regular progress meetings with their employees throughout the course of study.

Managers must ensure they make an equitable assessment and manage the study leave allocations within their teams, taking into consideration the study load of each individual and the operational requirements of each work area.

### Attendance at a Conference - Professional and General Staff

[TAFE] acknowledges that professional and general employees may be invited to present at, or attend, conferences. Approval is granted on the basis that:

- It is relevant to the position held; or
- Attendance is required as an official representative of the [TAFE]; and
- It is during the employee's normal duties; and
- The conference relates to the business of the [TAFE].

### Fringe Benefit Tax Implications

Travel time to attend conferences, OSPs and fieldwork will be in accordance with the Travel Fringe Benefit Tax Policy.

### Employee Funded Extra Leave

#### Purpose of leave

The purpose of employee funded extra leave is to provide employees with options for Flexible Work and Leave Practices.

Effective leave management, including limiting leave liability, is critical to the operation of the [TAFE]. Supervisors are accountable for managing their employees' leave and are required to have leave management plans in place.

#### Conditions of Employee Funded Extra Leave

The Approved Delegate will assess each application for an employee funded extra leave scheme on its merits. The work area must consider the personal circumstances of the employee, together with the operational requirements of the work area, when considering each application, including ensuring that workload does not unreasonably increase or result in overtime for other employees within the work area.

Retrospective applications for employee funded extra leave are not permitted.

Employees are to provide their supervisor with a proposed leave plan when applying for an employee funded extra leave scheme.

Employees are expected to clear their purchased leave/deferred salary within the period of the scheme.

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Withdrawal from employee funded extra leave schemes must be made in writing and be:

- Due to unanticipated changes in personal circumstances; or
- Resignation; **and**
- Approved by the Approved Delegate.

Employee funded extra leave schemes are not intended to be used where a reduction in FTE is required.

Leave purchased under the employee funded extra leave scheme:

- Is not annual leave.
- Annual leave and paid personal leave cannot be taken while an employee is on employee funded extra leave.
- An employee who is sick during a period of employee funded extra leave, cannot have their employee funded extra leave reinstated and personal leave credits deducted from their accrued entitlements.

An employee who is on a period of employee funded extra leave will continue to accrue annual, long service and personal leave credits. The leave credits accessed after the expiry of the scheme, will be paid at 100% of the employee's salary.

All forms of leave taken during the scheme period will be paid at the reduced salary, detailed in the Employee Funded Extra Leave Agreement.

### Superannuation

Employee funded extra leave will affect superannuation benefits. Employees should seek independent financial advice. Employees who wish to continue superannuation contributions based on 100% of their applicable rate of pay will be responsible for arranging and paying the difference.

### Purchased Leave

A purchased leave agreement is for a period of twelve (12) months. If the employee wishes to continue the purchased leave agreement for a further period, a new application must be submitted before the end of the twelve (12) month period.

All purchased leave should be taken during the purchased leave period. Purchased leave must be exhausted in full before accessing an annual leave entitlement.

Where an employee has been unable to exhaust all of their purchased leave entitlement at the end of the twelve (12) month period, the employee's salary will be adjusted, and the unexhausted portion of the purchased leave will be paid to the employee.

Employees who withdraw from the scheme or resign from the [TAFE] before the end of the purchased leave period will either:

- Have the pro rata amount of unused purchased leave reimbursed as a lump sum payment; or

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- Be required to repay any overdrawn purchased leave.

All employees must submit a proposed leave plan to their supervisor with their application for purchased leave, at the beginning of each calendar year (or earlier where requested).

Purchased leave is considered as service for all purposes.

Where an employee is required to work overtime during the purchased leave agreement period, they will be paid overtime based on 100% of their applicable rate of pay.

### Deferred Salary Scheme

Employees who withdraw from the Deferred Salary Scheme or resign from the [TAFE] before accessing/clearing the deferred leave will be paid:

- A one-off lump sum payment equivalent to the percentage of salary foregone during the period already worked; and
- A one-off lump sum superannuation payment based on the salary forgone. The payment will be paid into the employee's superannuation contribution scheme account and will be paid in accordance with the employee's current rate.

Non-participatory periods, will not be deemed as withdrawal from the scheme and will delay the commencement of the leave by the length of non-participation.

Employees will be paid their normal salary during non-participatory periods.

Annual leave is to be cleared annually during the term of the Deferred Salary Scheme.

Deferred leave must be taken immediately following the completion of the deferred salary scheme period.

Deferred leave will not constitute a break in service and will count as service for all purposes, except salary increments.

Employees cannot work for the [TAFE] when taking their deferred leave.

### Trade union training leave (Per Victorian TAFE Teaching Staff Agreement 2018)

Employees shall be entitled to a maximum of 5 days paid leave per calendar year or an aggregate of 10 days paid leave over 2 calendar years to attend an activity or course of study which contributes to a better understanding of dispute resolution provisions of this Agreement.

Applications for such Leave must be approved prior to the taking of Leave. Such applications will not be unreasonably refused providing:

- The application is accompanied by a letter from the authority conducting the activity or course stating the Employee wishes to attend and providing notice as to date, time, location, duration and content or purpose of the activity or course; and
- The release of the Employee does not cause undue inconvenience to the Employer.

Leave granted under this clause:

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- will be on full pay which shall include payments which are deemed to be part of pay for all purposes but shall not include payments for work outside ordinary hours or excess hours payments;
- May include any necessary traveling time in normal working hours immediately before or after the activity or course; and
- will count as service for all purposes.

An Employee granted leave under this clause will not be permitted to claim reimbursement of personal expenses such as fares, accommodation or meal costs in attending the activity or course.

### **Leave to Leave To Attend Trade Union Council Meetings**

Australian Education Union state councillors will be given up to 8 days leave in any one calendar year to attend union council meetings or alternative Five of these days are to be deducted from the Employee's trade union training leave.

### **AEU Union Representatives Time Allowance**

Australian Education Union representatives will be granted time allowances to be deducted from face to face teaching; online or by other means; and/or supervision of learning. The total of time allowance allocated will be 145 hours for first 50 members plus one hour for each additional member. Union membership numbers will be confirmed annually in December of each year.

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### WORKING FROM HOME

#### Purpose

This policy aims to set in place guiding principles for employees to undertake work on behalf of [TAFE] at their home premises in a safe and productive manner.

#### Policy

[TAFE] may provide an opportunity for employees to undertake some work responsibilities from their homes subject to the considerations contained with this policy.

#### Responsibilities

Manager/Team Leaders have a responsibility to:

- Ensure that employees whose roles are suitable for working from home are aware of this policy and their responsibilities under this policy.
- Arrange, review and implement the recommendations of an OH&S assessment prior to an employee commencing work from home.
- Ensure operational budget can carry the cost of IT equipment including an additional phone line if required.

Employees have a responsibility to:

- Comply with the requirements of this policy and procedure.
- Comply with the advice as provided through the OH&S assessment.
- Ensure they manage their IT equipment in line with [TAFE] policy.
- Take all reasonable precautions to ensure that any [TAFE] equipment or property (including intellectual property) used when working from home is protected from loss, damage or unauthorised access.
- Maintain safe work conditions and practices in the home office/workspace.
- Report any hazards or incidents to their Manager/Team Leader/Team Leaders.

#### Procedure

[TAFE] may provide an opportunity for employees to undertake some work responsibilities from their homes subject to the following considerations:

- The nature of the work being compatible with it being undertaken away from the office.
- That due consideration of the impact on work unit outcomes have been included in the decision.
- [TAFE] needs.
- Provision of service requirements.
- Productivity.

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- Efficiency.
- Individual needs and circumstances.

### Eligibility

Working from home is a voluntary arrangement and all employees are eligible to apply. Alternatively [TAFE] management may offer this flexible work option to an employee where they feel it will assist both parties. [TAFE] recognises that this flexible work option will not be appropriate or possible in all circumstances.

[TAFE] values the importance of all employees working and interacting together in the office environment. This communication benefits both our customers and employees. Therefore, any working from home arrangement should include times for the employee to attend team meetings, and other team communication sessions as required.

Employees working from home will not change their employment status, conditions of employment, job responsibilities or performance standards.

The CEO, at his or her sole discretion, will determine whether an employee is eligible for working from home.

### Guiding Principles

A working from home arrangement has the potential to benefit both [TAFE] and its employees by reducing absenteeism and employees 'down-time' that can be caused by family or lifestyle difficulties or crises. Employees benefit from the increased flexibility in managing their time, work, and lifestyle responsibilities.

This arrangement may also be the result of practical considerations due to lack of office space, etc.

Working from home can be arranged to deal with many situations for example:

- Where a project or piece of work needs to be completed urgently and there are likely to be fewer disruptions to a person working privately and quietly at home.
- Where an individual has some temporary carer responsibility which makes it difficult for them to attend the workplace during regular hours but can still perform their duties at a different time.
- Where a person has a temporary disability or is recovering from an injury and has difficulty attending the workplace but is still capable of performing their regular duties.
- A person returning from parental leave may wish to combine working from home and the office / site for a short period of time. eg this may involve attending work at the workplace for three days a week and working from home two days a week

Manager/Team Leaders will need to continue to provide regular feedback, coaching, and monitor performance and manage the health and safety risks.

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For this flexible work option to be successful the employee needs to be self-motivated and self-directed and have clear performance measures that will indicate whether this option is meeting both [TAFE]'s and the employee's needs.

Working from home arrangements work best where there is a high level of trust and cooperation between the Manager/Team Leader and the employee, where performance is assessed on results, and regular communication between the home-based worker and the office ensures all parties are kept informed about important events and issues.

An employee, who wishes to work from home, and their Manager/Team Leader, should detail the arrangement in a formal Working from Home Agreement.

### **Working from Home Agreement**

Employees who wish / need to work from home for a maximum of 12 days in any three (3) month period do not need to enter into a formal working from home agreement with [TAFE]. Where there is a need to extend the number of days or it is expected that the number of days working from home will exceed 12 days in any given three (3) month period, and this is acceptable by all parties, a comprehensive written working from home agreement needs to be established.

Employees are required to submit a formal request in writing using the Working from Home Agreement to their relevant Manager/Team Leader.

A working from home agreement shall include:

- Details of where the work will be completed in the home. Preferably in a specific work area.
- The number of hours that will be worked from home. The hours / days when the employee will attend the workplace.
- How employees / Manager/Team Leaders and team members will communicate, discuss work issues and manage customer expectations.
- How documents and other work-related materials will be securely transported between the home-based office and [TAFE]'s workplace.
- How performance will be measured and the success of the working from home arrangement evaluated.
- Agreement by the employee for [TAFE]'s OH&S representative to inspect the work location to ensure that their home based working situation conforms to acceptable Occupational Health and Safety standards and to monitor any potential OH&S issues. This is subject to prior agreement and reasonable notice by all parties.
- How security and confidentiality of [TAFE] material and information will be maintained.
- An inventory of equipment / material provided by [TAFE].
- Steps to follow if equipment malfunctions or is damaged or stolen.
- Duration of the agreement.

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The employee will be required to agree that [TAFE] is not responsible for any liability on the part of a third party, unless the third party or parties are on-site in connection to work related functions or duties.

[TAFE] policies and procedures will continue to apply to employees when working from home.

### Time/Scheduling Arrangements

Employees working from home can expect to be considered for the same assignments as any other employee, provided they can realistically expect to complete the assignments given the time schedules and requirements of the project.

As far as possible the employee will continue to work normal working hours but at a location away from the [TAFE] workplace.

Working hours generally, need to be agreed between the Manager/Team Leader and employee. However, as the working from home arrangement is designed to give flexibility in both the location of work and working hours there does need to be a degree of flexibility in establishing where and when work will be done.

It is appropriate to establish times when the employee will attend their normal place of work (ie [TAFE]'s workplace). When organising this schedule consideration should be given to the timing of team meetings and other work/team related functions so that the employee is able to maintain communication with the workplace and their colleagues.

A schedule for performance monitoring and discussions about work in progress should be established at the beginning of the working from home arrangement.

### Communications

[TAFE]'s management will ensure that there are regular opportunities for communication to take place between the employee and their Manager/Team Leader. They will make all reasonable efforts to ensure that the employee receives all the information they need concerning employee meetings, training and other career development opportunities available to employees who work on-site.

The employee will ensure that they will be contactable during the time home based work is being undertaken, and available for communication with their peers, or Manager/Team Leader.

### Work Standards

The Manager/Team Leader will ensure that the work carried out by the employee in the home-based work site will be considered when the employee's work performance is reviewed as part of the appraisal process.

The Manager/Team Leader and the employee will set-up and implement an agreed procedure to supervise and monitor work which is being undertaken at home.

### Training

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The Manager/Team Leader will make sure that training and career development opportunities are made available on the same basis as for employees who are based in [TAFE] workplaces.

### Termination of the Home-Based Work Agreement

Either party may cancel the agreement before the expiry date providing that the person wishing to cancel the arrangement gives reasonable notice.

It is agreed that 'reasonable' notice is four weeks if the previously agreed period for home-based work at the site was six months or more: or three weeks if the previously agreed period for home-based work at the site was less than six months.

### Information and Communications Technology

It is expected that staff working from home will require access to corporate systems via a desktop PC. This means that employees will need to either organise the purchase of a new PC or arrange for a "pre-loved" PC to be allocated to them with the appropriate software installed.

Employees are expected to provide information on the systems required to be accessed from home. Costs associated with additional phone lines and peripheral equipment, such as printers, will be charged to the local work area's budget.

The Manager/Team Leader is required to put forward a request to IT Support requesting a home PC with details of software applications required (using the IT Network Connection form). IT Support will also arrange access to the appropriate corporate network files and systems.

### Occupational Health & Safety Assessment

[TAFE] is required to provide a safe place of work regardless of the location. Therefore, in all instances where a Working from Home Agreement is required to be entered into the employee's home-based office must be assessed to ensure that it complies with the requirements of the appropriate Occupational Health and legislation and [TAFE] OH&S policies and procedures.

The OH&S assessment is to be conducted by a qualified OHS/Ergonomic professional nominated by [TAFE], utilising the "Office Ergonomic Assessment Checklist". The OH&S assessment will include:

- Layout of screen-based equipment.
- Desk.
- Seating.
- Storage requirements.
- Lighting.
- Noise.

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- Advice to the employee on the basic principles of workstation ergonomics, adjustment of seating and correct sitting postures.

The OH&S assessment is to occur following the set-up of information technology items in the home and prior to commencement of working from home.

Details of the assessment are to be provided to the employee, their Manager/Team Leader/Team Leader and the HR Manager.

### **Furniture items which may be required**

The OH&S assessment may identify that furniture items are required to ensure a safe workplace. The procurement of these items must be arranged by the employee's Manager/Team Leader/Team Leader and installed in the employee's home prior to commencement of working from home.

### **Electrical Safety**

The setting up of any home-based PC and associated electrical equipment must not contravene the relevant electrical Australian Standards nor overload the household electrical circuit. Only Standards Australia approved power-boards with in-built overload protection shall be used.

### **Incident Reporting and WorkCover**

Employees working from home are deemed as 'workers' under the Accident Compensation legislation, therefore the normal liability and WorkCover provided to all employees is extended to those employees working from home. Where a work-related injury occurs, the employee must advise their Manager/Team Leader immediately and complete an Incident/Hazard Reporting and Investigation form as per the Incident/Hazard Reporting and Investigation Policy and Procedures.

### **Equipment and Materials**

The Manager/Team Leader and employee will prepare an inventory of the equipment to be used by the employee whilst working from home. The inventory will specify who owns the equipment and/or software. The list will be attached to the Working from Home agreement.

The equipment owned or leased by [TAFE] and for use by the employee whilst working from home will be used solely for the purposes of [TAFE]'s work. All equipment owned or leased by the [TAFE] will remain the property of [TAFE] or contracted leaser.

Any software installed on a computer for working from home arrangements must comply with the license arrangements.

The employee agrees to [TAFE]/their Manager/Team Leader having access to the home-based work site during hours of work or after provision of reasonable notice (at least 48 hours) for the removal of the equipment. In removing the equipment [TAFE] will take all reasonable care to minimise damage to the home-based work site and/or property. If damage to the site is caused by the [TAFE]'s actions, [TAFE] is responsible for repairs, replacement or compensation.

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The employee agrees to notify their Manager/Team Leader or supervisor if any difficulties occur with the operation of the equipment. They will allow access to replace, service or repair the equipment.

### Costs

The local work area is responsible for providing or meeting all costs associated with an employee working from home. These costs will include:

- PC.
- Telephone plus additional phone line if required.
- OHS assessment.
- The hiring and/or purchase of furniture (as determined by the OHS assessment).
- Stationary and other materials.

If an employee's equipment is to be used at the home-based work site for [TAFE]'s work, the percentage of costs of maintenance, repair and insurance of the equipment to be borne by [TAFE] will be agreed between the Manager/Team Leader and employee. The way consumables will be supplied (eg toner, paper, etc) will also be agreed. These agreements will be documented and attached to this agreement.

The employer shall not be responsible for the cost of utilities or home maintenance unless otherwise agreed by the employer.

### Security Issues

Security of assets and information will be as agreed for office-based employment. It is agreed that the employee will take all reasonable precautions necessary to secure [TAFE]'s materials.

Employees working from home should take all reasonable care to protect the confidentiality and security of work undertaken in the home. This includes restricting the access to [TAFE] documents and any other work on the computer whether the computer is the property of the employee or [TAFE].

If an employee believes that the organisation's material has been compromised, tampered with or stolen, he or she should immediately report the matter to his or her Manager/Team Leader.

### Family Responsibilities

Employees who have personal responsibilities such as child-care or elder care will be expected to manage these responsibilities in a way that allows them to successfully meet their employment obligations.

### Documentation

- Office Ergonomic Assessment Checklist

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- Working from Home Application form
- Working from Home Agreement
- Office OH&S Assessment Audit
- Working from Home Equipment List

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## **TRAINING & DEVELOPMENT**

### **Policy**

It is the [TAFE]'s policy that training and personal development be an ongoing process of building and maximising the potential of staff to achieve its organisational goals and objectives.

To this end, training and development shall be an integral part of corporate planning, and human resource development programs shall be consistently maintained.

[TAFE] will provide training appropriate to the current position of the job holder to allow employees to carry out their work competently. Opportunities will also be offered for self-development and up-skilling.

Training, based on specific work-related objectives, is regarded as a legitimate use of work time.

### **Induction**

See: Starting the new employee

### **Training needs analysis**

#### **Purpose**

To ensure training needs are identified and actioned regularly. To allow the [TAFE] to develop team members in their current positions and prepare them for future challenges.

This policy shall apply to all permanent and temporary (if more than 3 months) team members should have their training needs identified at least annually.

#### **Documentation**

Performance Appraisal Review.

Training Matrix.

#### **Responsibility**

The Human Resources Manager in consultation with the Team Manager of each individual is responsible for identifying and actioning training needs.

#### **Procedure**

There are two methods of training needs assessment:

- Generic Skills Matrix which records training undertaken / needed to meet [TAFE] core competencies and skill levels.
- Staff assessed using the Performance Appraisal Review.

The process is the same for either waged or salaried staff.

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- Once each year current performance is compared to the ideal using the appropriate standard forms.
- Anticipated future job roles and responsibilities are considered to ensure training prepares people for more than their current role.
- The gaps between the ideal performance and current assessment are areas to be addressed.
- If the issue is related to a specific skill development area it is a training need.
- If the performance gap is due to behavioural rather than skill issues there may not be a training need but some action must still be taken to determine the reasons and agree upon future action.
- Programme action to resolve needs identified.
- A Training Action plan shall be drawn up for the team and individual recording proposed training dates.
- Review Training Action plan at least every six to 12 months.

### Training Records

#### Policy

Records of annual reviews and current position descriptions are to be retained on the employee's personnel file.

All training supported/provided by [TAFE] shall be documented on the training matrix and on the employee's personnel file.

As a minimum these records should document for everyone the:

- Date of training.
- Course title.
- Successful completion.

### Performance Appraisals

#### Policy

It is [TAFE]'s policy that performance management be an ongoing process of building and maximising the potential of staff to achieve its organisational goals and objectives.

To this end, performance management shall be an integral part of corporate planning, and human resource development programmes.

Performance will be undertaken in a fair and equitable manner with the direct input of the appraised employee.

#### Purpose

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To provide a system of performance management designed specifically to ensure that all staff employed by [TAFE] is effectively carrying out the duties of their position.

The performance management system integrates the staff training program.

### **Documentation**

- Performance Appraisal Form.
- Manager's Preparation form.
- Employee's Preparation form.

### **Responsibility**

It is the responsibility of managers and supervisors to implement a performance management program that includes all staff in their area.

It is the responsibility of all parties to be well prepared and treat the appraisal process in a positive and productive exercise.

### **Procedure**

#### **Introduction**

It is essential that managers and supervisors carry out performance appraisals in a fair and professional manner as most negative feelings towards performance appraisals are generally due to bad past experiences.

The following procedure is to assist managers and supervisors promote a positive attitude to a fair and equitable performance appraisal system that is designed to promote a more productive and happier working environment.

The steps are:

1. Develop performance criteria and task statement.
2. From the task statement establish measurable Criterion and standards.
3. Develop business targets and Action plan.
4. Complete a Personal Development plan.
5. Performance review/appraisal.

The performance management cycle

The performance appraisal is one plank in the overall goals of the [TAFE] to achieve excellence in service delivery.

The following illustrates the process:

### **[TAFE] Mission Statement**

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### Develop Departmental Key Result Areas (KRA's)

Departmental KRA's flow from [TAFE] broader goals and business plans. For example, typical generic departmental KRA's may be:

- Leadership/people management.
- Team contribution.
- Financial management.

Departmental strategic plans can be developed from the [TAFE]'s strategic plan, by defining main areas which are important for the [TAFE] to achieve good results. Departments can then analyse these to identify how these relate to the department and the various jobs within it.

### Individual KRA's

Individual KRA's should flow from the departmental KRA's and should be reflective of the individual's position description and would vary according to the type of role and the level of responsibility. For example:

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Manager	Team Member
Leadership/people management	Team contribution
Team contribution	
Financial management	Financial management
Divisional management	
Coordination of business plan	Assist with business planning process
Benchmarking operational performance	Report generation

As mentioned, the position description should identify the tasks to be carried out by the employee. The KRA should use this in an “action” statement form. For example:

“writes a monthly management report –in order to- inform departmental managers of current activities –by- recording all of the department’s major achievements during the previous month”

### Measurement

The outcome of any appraisal system should be a fair and equitable and objective measurement of performance.

The performance appraisal form should contain the individual KRA’s as follows:

KRA	Activity	Performance standards	Rating 1-5
Task action statement	Action taken to achieve KRA	Desired outcome	
Divisional management	Writes monthly management report	Report submitted each month. Clearly written and accurate.	

When rating an individual’s performance, it is important to rate the employee’s performance as objectively as possible, without bringing the appraiser’s own biases and opinions into the review process (“Halo” / “Horns” effects).

The Rating Method is contained on the performance appraisal form (attached).

Factors which make up performance

When performance managing staff, it is imperative to undertake a “contextual review” of the factors which may influence the individual’s behaviour:

- **Role clarification:** position description, induction, job reviews.
- **Competency:** Knowledge, attitude and skills. Were they there when hired? Has s/he become deskilled through lack of use of that skill?
- **Environment:** equipment, OH&S, culture, conflict, EEO, harassment.
- **Values:** can be detected at interview – sometimes hard to ascertain.
- **Preference and fit:** job fulfilment, scope, enjoyment/satisfaction, autonomy, skill use.

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- **Reward:** money, non-money, what is of value to employee.
- **Feedback:** has employee been told how they are doing?

### Preparation

Preparation is essential to the conducting of an effective performance appraisal. The performance appraisal form contains useful checklists for employees and managers to assist them in the preparing for the appraisal.

The Appraiser's attitude and approach

Managers and supervisors need to have interpersonal skills in:

- Listening.
- Questioning.
- Clarifying.

The performance appraisal should be carried out by managers and supervisors who are:

- Positive toward the process.
- Prepared.
- Not using it as a vehicle for revenge.
- Not emotional.
- not aggressive (attacking).
- Focused on performance and not personality.
- Able to put the appraisee at ease.
- Considerate of the appraisee's feelings.
- Able to use the session as an opportunity to solve problems.
- Prepared to listen.

Manager's should also:

- Have a plan and stick to it.
- Assess against previous goals and objectives.
- Analyse problems with the appraisee.
- Gain agreement on the assessment and goals.

Managers should not:

- Compare appraisees against one another.
- Talk about other staff.
- Conduct an appraisal with an employee they have not observed their work.
- Get into personality conflicts.

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- Make statements that are unfounded in fact.
- Verge into irrelevant area.
- Do all the talking.
- Make promises they can't deliver.

### Reviews and feedback

Reviews should be carried out annually, with an interim review done each six (6) months. This does not substitute for "management by walking around" nor giving feedback to employees on a regular basis.

Any follow-up issues arising out of the appraisal should be diarised and met within agreed timelines.

It is a good appraisal if it:

- Links to the [TAFE]'s goals.
- Not used as a disciplinary session.
- Builds on the appraisee's strengths.
- Links to the training and development of the appraisee.
- Covered the appraisee's performance and development plans, including career objectives.
- The appraisee knew of and understood the process before-hand.
- Preparation was undertaken by both the appraisee and the manager.
- Establishes agreed objectives for individual achievement.

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## **REMUNERATION & REWARDS**

### **Policy**

[TAFE] policy regarding the remuneration of employees at all levels seeks to achieve the following:

- Compliance with legislative minima.
- Attracting and retaining the highest calibre of employees, who by virtue of their skills, abilities and attitudes will build a sound base for the future success of the organisation.
- Creating a working environment that promotes employee motivation so that employees perform to the best of their abilities.
- Rewarding increases in employee's contributions, for both productivity increases and the undertaking of greater responsibilities.
- Recognising levels of accountability and reflecting the current level of an individual's performance.
- Remunerating employees in a manner that is consistent with external labour market trends.

### **Procedure**

Where a rewards and recognition scheme is contemplated, the following procedure may be used:

- A Steering Group comprising management and staff representatives is established to define the scope of the program (i.e. Why, who, how, what, when, etc.).
- Reward and recognition programs acknowledge the policies and principles of the Institute. (i.e. A statement is included in the introduction to program documentation).
- A clear chain connects stated organisational objectives and program goals.
- The relationship between R&R programs and TQM/QA processes is established.
- Performance standards and operational targets are clearly defined.
- A budget is allocated to the program.
- The nature of rewards and recognition is determined and agreed to by all.
- Details of the scheme are distributed to all staff and management for ratification.
- All administrative processes are in place:
  - Accounting.
  - Nomination procedures.
  - Presentations.
  - Pro forma letters.
- A promotional strategy is implemented, using regular Institute channels (newsletters, circulars, memoranda, electronic bulletin boards etc.).

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- Managers and supervisors are fully briefed on the process.
- Training needs for managers/supervisors in giving informal recognition are addressed.
- Staff are fully briefed on the process by managers/supervisors.
- Review mechanisms are in place for continuing development of the program.

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### Superannuation

#### Policy

[TAFE] will make payments of not less than required by the prevailing federal legislation pertaining to the superannuation guarantee into a fund nominated by the employee. If the employee does not wish to nominate a fund, then [TAFE] will make the payments to the [TAFE]'s nominated fund.

[TAFE] will forward payments to the nominated fund monthly.

Employees are to check with their nominated superannuation fund for further details.

Where the employee fails to nominate a fund, [TAFE] shall contribute the statutory amount on their behalf into the [TAFE]'s preferred fund (name fund).

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### Payslips

#### Policy

[TAFE] will ensure that each employee receives a payslip on or before their pay day – either in electronic form or a hard copy.

Such payslips shall be treated as highly confidential and contain information which is in accordance with the Fair Work Act 2009:

- [TAFE]’s name.
- The employee’s name.
- The period to which the pay slip relates.
- The date on which the payment to which the pay slip relates was made.
- The gross amount of the payment.
- The net amount of the payment.
- Any amount paid to the employee that is a bonus, loading, allowance, penalty rate, incentive-based payment or other separately identifiable entitlement.
- Australian Business Number (if any) of [TAFE].
- If an amount is deducted from the gross amount of the payment, the pay slip must also include the name, or the name and number, of the fund or account into which the deduction was paid.
- If the employee is paid at an hourly rate of pay, the pay slip must also include:
  - The rate of pay for the employee’s ordinary hours (however described).
  - The number of hours in that period for which the employee was employed at that rate.
  - The amount of the payment made at that rate.
- If the employee is paid at an annual rate of pay, the pay slip must also include the rate as at the latest date to which the payment relates.
- If [TAFE] is required to make superannuation contributions for the benefit of the employee, the pay slip must also include:
  - The amount of each contribution that [TAFE] made during the period to which the pay slip relates, and the name, or the name and number, of any fund to which the contribution was made; or
  - The amounts of contributions that [TAFE] is liable to make in relation to the period to which the pay slip relates, and the name, or the name and number, of any fund to which the contributions will be made.

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### Salary Sacrificing

The [TAFE] and its employees may enter into a written remuneration packaging arrangement that gives the employee the ability to salary sacrifice and take advantage of legitimate pre-tax savings.

All such arrangements will be subject to the rulings of the Australian Taxation Office (ATO).

Generally, and subject to the ATO's, changes from time to time, salary can be sacrificed for additional superannuation payments, novated or associated novated vehicle leasing, or laptop computers, or [TAFE] goods and services.

For further details go to:

[https://www.ato.gov.au/general/fringe-benefits-tax-\(fbt\)/in-detail/employees/salary-sacrifice-arrangements-for-employees/](https://www.ato.gov.au/general/fringe-benefits-tax-(fbt)/in-detail/employees/salary-sacrifice-arrangements-for-employees/)

Employees wishing to participate in this scheme should seek their own professional advice prior to contacting payroll.

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### Classification Procedures

#### Introduction

Procedures have been implemented in the TAFE system with the aim of ensuring a consistent and equitable approach to job classification. In addition to benchmarking against similar positions within the Institute, all PACCT and Teaching positions are classified in accordance with agreement descriptions. Other trade positions are classified according to the structure outlined in the relevant Award or the Victorian Education Services Industry Sector Minimum Rates definitions.

All new positions should be evaluated, and existing positions should be reviewed regularly to ensure that they are classified accurately. Reviews should be initiated where a position description is amended.

A range of factors are considered and ascribed points according to a formula. The factors are:

- Knowledge
  - Training and experience
  - Diversity
  - Interpersonal skills
- Judgement
  - Work complexity
  - Reasoning and creativity
- Accountability
  - Stature and independence
  - Size
  - Scope

For the system to work, or to classify positions relative to Agreement or other definitions it is essential that position descriptions are written which comply with a standard format.

#### Purpose:

To ensure that all PACCT positions are classified in a consistent and equitable manner throughout the Institute in accordance with legal minima.

#### Note:

- All PACCT and teaching positions are classified according to the relevant Agreement.
- Trade positions classified relative to appropriate Award.

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### Policy:

Positions will be classified by a panel of trained evaluators convened with regard to principles of equal opportunity and that are representative of Institute personnel.

### Principles underpinning this policy

In considering a position classification level it is the position and not the incumbent that is classified.

A position may be considered for reclassification if there has been a substantial change in work related factors including:

- The difficulty and complexity of the work performed; and/or
- The level of responsibility; and/or
- The degree of supervision exercised; and/or
- Knowledge and skills required; and/or
- The impact of the position on the organisation.

**Note:** A change in the volume of work will not constitute sufficient reason for reclassification. The change should constitute significant net addition to work value to warrant reclassification.

- The CEO, the immediate line manager or the incumbent may initiate a position classification.
- Applications are to be in writing and must be fully supported by an explanation of perceived need for reclassification and a detailed position description.

### PACCT positions

#### Key implementation guidelines

Responsibility for maintaining this panel rests with the Institute Director or nominee.

A Classification Evaluation Committee involved in evaluating positions shall comprise no less than two people.

Panel members should not be involved in evaluating positions within their own immediate area.

The duties and responsibilities of a new or vacated position will be prepared and a Classification Evaluation Committee will evaluate the documentation. The Director will determine the classification after consideration of the Evaluation Panel's advice.

Re-classification may be proposed by line management or the incumbent.

Where a reclassification application is initiated, the line manager consults with the Human Resources Department to ensure that the required documentation is prepared in a format appropriate for evaluation.

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A submission for reclassification review initiated by the incumbent must be made through the immediate line manager.

An application for reclassification must include the following details:

- Position title and department/division;
- Time fraction;
- Organisational chart clearly identifying all the positions in the work area and their respective classification levels, the reporting relationships and the position to be reviewed;
- Current classification level;
- Initiator's name;
- The incumbent's reasons in support of the reclassification;
- A position description that reflects accurately the current duties and responsibilities, accountabilities and authorities pertaining to the position, signed and dated by the incumbent and immediate line manager;
- The immediate line manager's reasons in support (or opposition) that a review be conducted. This must also include details of any alternatives that have been explored by way of: work reallocation, additional staff, introduction of new or revised technology and procedures. (Note: The line manager is not authorised to recommend the proposed reclassification level).

If agreement is not reached on the content of the position description, a Classification Grievance Resolution Committee of one manager and the Human Resources Manager shall meet and determine the final position description. The manager member will not be the line manager of the position under consideration. In considering the disputed wording and content of the position description, the Committee may hear submissions from the incumbent and the immediate line manager. The deliberations of the Committee shall be completed within 15 working days of receipt of the disputed position description. The incumbent and immediate line managers are advised of the outcome. The final position description must then be signed by the incumbent and immediate line manager prior to evaluation.

The completed documentation is to be endorsed with a recommendation by the relevant Department/ Divisional Manager for a review to be conducted and submitted to the Human Resources Manager. The recommendation must either support or oppose the submission and be accompanied by the Department/Divisional Manager's reasons and may include the Manager's view of the proposed reclassification level.

The Classification Evaluation Committee will be convened by the Human Resources Manager within 15 working days and will consider the documentation in operation at the Institute and may consider internal and external benchmarking of the position.

The administration of the Committee's operations shall be in accordance with the Institute policy, or if this is silent, as determined by the Panel members.

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A written report containing the Committee's recommendations shall be made to the Director within 10 working days of the conclusion of the Panel's deliberations.

If the report contains a recommendation involving a downward classification and this is confirmed by the Director, the incumbent will be placed on salary maintenance for a period of 12 months and other alternatives are explored for placing that person, which will not disadvantage them by way of salary.

A reclassification resulting from a review and evaluation conducted using the above process shall be effective from no later than the day the reclassification is approved by the Director who shall consider the matter without undue delay.

The applicant for a reclassification and the line manager shall be notified in writing of the result of the Director's decision within 10 working days. The notification shall be provided by the Human Resources Manager.

If the applicant is not satisfied with the classification determination, they may lodge an appeal within 10 working days of being notified of the result of the application. The appeal is to be lodged with the Human Resource Manager in writing. The appeal outcome is to be notified within 35 working days of the complete appeal being lodged.

Grounds for appeal are:

- impropriety of the application of classification descriptors; and/or
- the classification is inconsistent with positions with substantially similar responsibilities and accountabilities within the Institute.

The Reclassification Appeals Committee shall comprise three trained evaluators not involved in the original evaluation.

The Appeals Committee role is to consider the appeal and where appropriate to evaluate the agreed or final position description using classification descriptors in operation at the Institute and make a report to the Director.

The Director will consider the report and recommendation provided and will determine the outcome and ensure that the appellant and line manager are advised of the outcome.

Where the incumbent rejects the Director's decision, they may initiate the dispute settlement procedures outlined in the relevant agreement.

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### Checklist

- ☐ The Evaluation Committee will evaluate documentation regarding duties and responsibilities for new or vacated positions.
- ☐ Reclassification:
- ☐ Incumbent or line manager initiates submission for reclassification and consults with Human Resources Department to prepare documentation.
- ☐ Details required in reclassification application:
  - position title & department/ division;
  - time fraction;
  - organisational chart;
  - current classification;
  - initiator's name;
  - incumbent's reasons for application;
  - current position description; and
  - line manager's reasons in support or opposition of a review.
- ☐ Disagreement over position descriptions is resolved through determination of a Classification Grievance Resolution Committee, comprising the Human Resources Manager and one other manager (within 15 days).
- ☐ Final Position description signed off by incumbent and line manager.
- ☐ Completed documentation endorsed by relevant Director/Manager and submitted to Human Resources Manager.
- ☐ Classification Evaluation Committee convened within 15 working days to consider documentation in accordance with relevant classification descriptors.
- ☐ Committee concludes with report and recommendations within 10 working days.
- ☐ Reclassification downward instigates salary maintenance and redeployment issues.
- ☐ Reclassification effective from date of Director's approval and notification occurs within 10 working days.

### Appeal Process:

- ☐ Written appeal lodged by applicant within 10 working days to Human Resources Manager. Outcome notified within 35 working days.
- ☐ Reclassification Appeals Committee considers appeal and evaluates position description against the relevant classification descriptors.

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- ☐ Appeals Committee makes report and recommendation to Director.
- ☐ Director determines final outcome and ensures notification to appellant and line manager.
- ☐ Further dispute settled through relevant Agreement procedures.

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### DISCIPLINE & BEHAVIOUR MANAGEMENT

#### Purpose

[TAFE] expects all staff members to undertake their work duties and behave in accordance with [TAFE] standards of behaviour (see Code of Conduct & Ethical Behaviour Policy).

[TAFE] aims to ensure that any concern or issue regarding unacceptable performance or behaviour, and any consequent disciplinary action, will be handled appropriately, fairly and consistently and in line with the principles of natural justice - at all times treating the staff member with respect and dignity.

Should an issue or concern arise, [TAFE] should endeavour to offer the staff member an opportunity to improve unacceptable performance or behaviour so that they can consistently achieve the required standards.

However, in cases of serious misconduct, summary dismissal may be warranted.

It is important to note that this policy should only be implemented where “informal” meeting(s) have failed to correct the employee’s behaviour or in cases of serious misconduct.

Further, check local EBA’s to ensure that they meet the following criteria.

#### Scope

This policy applies to all [TAFE] employees.

#### Responsibilities

##### Staff members:

All staff members have a responsibility to familiarise themselves with this policy so that they are fully aware of the type of behaviour which may lead to a warning or dismissal. Ignorance of the rules will not be accepted as an excuse if a breach occurs.

##### Managers:

All Managers have a responsibility to familiarise themselves with this policy and apply it a fair and consistent manner; always treating the staff member with respect and dignity in accordance with this policy. This also means acting on objective (ie facts), not subjective (eg hearsay, innuendo) evidence.

Managers have the authority to counsel the staff member, confirm the counselling session in writing, (providing a copy to HR for review and filing).

Instances which involve behaviours that are of a nature requiring a written warning should be conducted in conjunction with HR.

Where there has been serious misconduct that would most likely result in dismissal the CEO must be advised who will consider advice from HR.

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### Support person:

The role of support person is to take notes on the employee's behalf and to act as a sounding board for the employee. They are not there to act as an advocate.

This may be different where there is a union representative involved. A union representative, can intercede on behalf of employees, however this must be done appropriately and respectfully.

If a support person insists on being an advocate, the meeting may be suspended, explain the process and give the support person another opportunity. If an employee lacks the ability to properly communicate through a meeting for example they may have language or disability issues, then it would be fairer to allow someone to advocate on their behalf.

### Management training

All managers authorised to utilise the disciplinary process will be provided with training on procedural correctness and fairness in disciplinary matters. No warnings shall be issued prior to this training taking place, unless under the supervision of an appropriately experienced manager.

### Less serious misconduct

The following are acts or omissions (not exhaustive) which may, after the appropriate warnings lead to dismissal.

- Persistent failure to achieve any performance standards set or incompetence in the performance of a staff member's duties short of gross incompetence
- The use of abusive, obscene or threatening language to another person in the workplace
- Disruption of the workplace by acts of undesirable behaviour
- Unauthorised absence from duty
- Smoking in no-smoking areas as defined by the [TAFE] Smoke Free Policy
- Without good reason, failing to notify the supervisor as close as possible to the normal commencing time that the staff member will be late or unable to commence work for that day.
- Failure to report any work accident, which requires medical treatment, within 24 hours
- Failure to notify the [TAFE] within two working days of being disqualified from driving
- Defacing of [TAFE] property and/or failing to maintain or take due care of [TAFE] property (including vehicles)
- Unreasonably frequent and persistent lateness or absence
- Any act or omission which, while not being serious misconduct, has a significant effect on a staff member's ability to carry out the duties of the staff member's position
- Any other act or omission, which, while not specifically covered by the foregoing classes of misconduct, is of a similar nature

### Serious Misconduct

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The following list (which is not exhaustive) contains examples of offences which constitute serious misconduct which may give rise to summary dismissal:

- Unauthorised possession of property, money, information or intellectual property belonging to or under the control of the [TAFE]
- Possession or use of the property of other staff members without the owner's permission
- Refusal to undertake the duties of the staff member's position or to carry out any proper and lawful instruction delivered by person acting with the authority of [TAFE]
- Walking off the job without authority
- Physical violence or the incitement of any such physical violence against any persons on the [TAFE] premises or at a work place where the [TAFE] staff members work
- Racial, sexual or other improper harassment of a staff member, customer or member of the public
- Being at work when intoxicated (whether drugs or alcohol) as to prevent or impede the proper performance of their own or the work of other employees. Staff who are required to take medication in accordance with the directions of a person lawfully authorised to prescribe the drug which may affect their ability to carry out their duties in safe and efficient manner should not present for work
- Being on licensed premises without permission during work hours
- The possession, transport or use of non-prescribed prohibited drugs or alcohol whilst on the [TAFE] premises or worksite. In the case of alcohol, prior permission may be granted in certain circumstances by a person with the authority to grant such permission
- Deliberate use of an unauthorised password in order to enter or attempt to enter, a computer known to contain information to which the staff member is not entitled to have access
- Failure to observe safety procedures or working in an unsafe manner, or failing to make proper use of safety equipment where such equipment is installed or supplied
- Falsification of any records or any action which could result in a payment to which a staff member is not entitled
- Any act which is likely to diminish the good reputation of the [TAFE] in the community
- Abuse of special leave such as carer's leave or bereavement leave
- Misuse or unauthorised use of the [TAFE] property, including vehicles. In the case of vehicles this includes the transport of non-authorised people or animals and using vehicles for private purposes
- Operating a vehicle without a current drivers licence or the appropriate class of licence for that vehicle
- Any wilful act causing or likely to cause injury or danger to life
- Smoking in areas where signs state this is prohibited for industrial safety reasons
- Unauthorised disclosure of confidential information
- Gross incompetence in the performance of the staff member's duties

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- Any repetition of misconduct, or similar misconduct, for which a final written warning has been given within the preceding 12 months\*

\*By way of explanation, this would mean that a staff member on a final warning for unauthorised absence from duty would not be at risk of dismissal for being late for duty (assuming they were not on a final warning for being late). However, such staff member would be at risk of dismissal for failure to report in, by the required time, if sick.

### Fairness in disciplinary matters

[TAFE] shall act fairly in all disciplinary dealings with staff members. In practice, this means:

- [TAFE] shall enquire into the circumstances of the matter as soon as practicable after it comes to [TAFE] notice and shall give the staff member reasonable opportunity to comment on the issue of complaint or concern
- The staff member shall be entitled to have a support person at all stages throughout the inquiry (other than at any meeting which has been convened as a matter of urgency to discuss the matter of suspension, or a brief discussion to establish whether there is case to answer). The meeting may be reasonably delayed (ie by a day or so) to allow the employee to arrange for a support person
- Pending [TAFE] decision on the matter the staff member may be suspended from work for up to five (5) working days on pay. The power of suspension shall not be invoked unless the staff member has been given an opportunity (which may be brief) to make representations on the appropriateness or otherwise of suspension
- If, after hearing the staff member's explanation on the matter of complaint or concern, [TAFE] is satisfied that there has been **serious misconduct**, [TAFE] may act in the its absolute discretion to:
- Terminate the staff member's employment either without notice or on giving such notice as [TAFE] deems appropriate in the circumstances

#### OR

- Transfer the staff member to other duties as an alternative to dismissal. Any such transfer may be to a lower grading with the attendant consequences of such a demotion. This action may only be taken with the approval of the staff member
- If, after hearing the staff member's explanation, [TAFE] is satisfied that either there has been less serious misconduct or serious misconduct but that there are mitigating circumstances, [TAFE] may at [TAFE] sole discretion either:
- Give the staff member a first or final written warning (as the case may be) which advises the staff member that any repetition of the conduct in question, or similar conduct, within 12 months of the date of the warning is liable to result in a final warning or termination of employment (as the case may be);

#### OR

- Take the matter no further.

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- Where, within the 12 months of a first or final written warning, it appears to [TAFE] that a staff member has been guilty of repetition of the misconduct or of misconduct similar to that for which the first or final warning was given, then at the discretion of [TAFE]:
- If the first warning has previously been issued - a final warning shall be invoked
- If a final warning was previously issued - terminate the staff member's employment either without notice or on giving such notice as the [TAFE] deems appropriate in the circumstances

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## **REDEPLOYMENT, REDUNDANCY & TERMINATION OF EMPLOYMENT**

### **Termination of Employment Policy & Procedure**

#### **Purpose**

The purpose of this policy and procedure is to ensure that the employment termination process is conducted in such a manner that:

- It is managed in accordance with [TAFE] policy.
- Is compliant with the provisions of the relevant legislation.
- No member of staff (regardless of employment type) shall be dismissed for discriminatory grounds.
- Exit interviews are carried out where appropriate, and details are recorded and acted upon.

Note: See attached for a summary of the Fair Work Act 2009 requirements for dismissal.

#### **Scope**

This policy and procedure is applicable to all staff, except for:

- Staff employed on an ongoing (or “permanent”) basis who have less than six (6) months service (ie “probationary period”), except for “notice period”.
- Temporary, “fixed term” or seasonal staff and the employment has completed in accordance with the written arrangements.
- Staff under a training agreement that has concluded.
- Where the staff member has been demoted and the demotion does not involve a significant reduction in their remuneration or duties.
- Contractors.

#### **Resignation or retirement**

Staff must put in writing their intention to resign or retire, indicating the proposed date of termination. The notice must be submitted through the staff's immediate supervisor who will acknowledge and forward the notice to Head Office for action.

The HR Manager will advise acceptance of the resignation in writing to the staff member.

Gifts, presentations and functions (eg luncheons) will be in accordance with [TAFE] policy, taking into consideration the wishes of the departing employee.

The timing of such notice shall as be required (see “notice period” section this document).

#### **Death of a staff member**

On receipt of advice that a member of staff has died, the HR Manager shall:

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- Convey condolences in writing to the immediate family
- Calculate outstanding salary and leave entitlements as from the last known working day and advise Payroll for payment action;
- Advise the relevant Superannuation Fund of the member's details (date of death, name and address of next of kin, and name and address of person handling estate)

### Abandonment of employment

Failure by a staff member to advise [TAFE] of the reason for any absence in excess of three (3) sequential working days will be considered to have abandoned their employment, and the staff member will then be deemed to have resigned, subject to the following:

- The staff member's supervisor has attempted to contact the staff member by phone
- If unable to contact the staff member by phone, then contact the staff member's next of kin as nominated in their personnel file
- Send a "show cause" letter to the staff member advising that if [TAFE] does not hear from them within seven (7) days from the date of the letter, they will have been deemed to have resigned and all payments due to them will be paid in the usual manner (EFT) and the final payslip will be mailed to their nominated address
- Where the staff member still does not respond within the seven (7) days' timeframe, the staff member will have been deemed to have resigned and a letter to this effect is to be sent to the staff member
- Where the staff member contacts [TAFE] any time after this process has been completed, it will be the decision of the HR Manager whether the staff member is reinstated. If this should occur, then the HR Manager is to consider each matter on its individual merit.

### Termination due to unsatisfactory performance

Staff members shall only be dismissed for unsatisfactory employment in accordance with the [TAFE] Disciplinary Policy, and then only after receiving advice from the HR Manager, who shall ensure that the dismissal complies with both [TAFE] Disciplinary Policy and the Fair Work Act 2009 (both as amended from time to time).

Consideration shall include:

- Has the person been provided with a "fair go all round"?
- The terms of the Disciplinary policy have been followed
- There is a "valid reason" for the dismissal (ie does the punishment fit the crime?)
- Has the person been notified of the reason for the dismissal, and provided with a genuine opportunity to explain the reason for their behaviour at a formal meeting (where the staff member has been offered a "support person")
- Any previous warnings

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### Termination due to serious misconduct

[TAFE] may terminate without notice the employment of a staff member found to have engaged in serious misconduct such that would make it unreasonable to require [TAFE] to continue employment during a period of notice.

Examples of serious misconduct are provided in the Disciplinary Policy. Also the Fair Work Act's Regulations include:

- Wilful or deliberate behaviour by an employee that is inconsistent with the continuation of the contract of employment;
- Conduct that causes serious and imminent risk to:
  - The health or safety of a person
  - The reputation, viability or profitability of the employer's business
- The staff member, engaging in:
  - Theft
  - Fraud
  - Assault
- The staff member being intoxicated at work. That is, the staff member's faculties are, by reason of them being under the influence of intoxicating liquor or a drug (except a drug administered by, or taken in accordance with the directions of, a person lawfully authorised to administer the drug), so impaired that the employee is unfit to be entrusted with the employee's duties or with any duty that the employee may be called upon to perform (see also Alcohol and Drugs Policy).
- The staff member refusing to carry out a lawful and reasonable instruction that is consistent with the staff member's contract of employment

The same process is to be undertaken as for the previous "Dismissal for Unsatisfactory Performance".

### Termination Notice

An employer must not terminate an employee's employment (subject to the exceptions set out below) unless they have given the employee **written notice** of the day of the termination.

An employer may give notice to the employee by:

- Delivering it personally, or
- Leaving it at the employee's last known address, or
- Sending it by pre-paid post to the employee's last known address.

An employer must not terminate an employee unless they have:

- Given the minimum period of notice (see table below) or
- Paid the employee in lieu of notice at the full rate of pay for at least the hours the employee would have worked had the employment continued until the end of the minimum period of notice (see table below).

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An employee's full rate of pay is the rate of pay payable to an employee, including all the following:

- Incentive-based payments and bonuses.
- Loadings.
- Monetary allowances.
- Overtime or penalty rates.
- Any other separately identifiable amounts.

If the employee is over 45 years old and has completed at least two years of service at the end of the day notice is given, the employee receives an additional one week's notice.

An employer does not need to provide notice of termination (or payment in lieu of notice) to any of the following employees:

- An employee employed for a specified period, for a specified task, or for the duration of a specified season.
- An employee whose employment is terminated because of serious misconduct (for example, an employee who has, during their employment, engaged in theft, fraud or assault).
- A casual employee.
- An employee (other than an apprentice) to whom a training arrangement applies and whose employment is for a specified period or is, for any reason, limited to the duration of the training arrangement.
- Employment is determined solely by seasonal factors.

Employee's period of continuous service with the employer at the end of the day the notice is given	Period
Not more than 1 year	1 week
More than 1 year but not more than 3 years	2 weeks
More than 3 years but not more than 5 years	3 weeks
More than 5 years	4 weeks

### Termination due to Redundancy

#### Preamble

[TAFE] shall not retrench a person just because their position is no longer required. All reasonable attempts must be made to redeploy the affected staff member to another position within [TAFE] or another business within the [TAFE] group of companies.

Such a position may be at a lower pay. In such case, the staff member may:

- Accept the new position at the lower pay; or

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- Reject the position and be paid out their redundancy entitlements (as set out in the Fair Work Act 2009).

When contemplating redundancies [TAFE] shall view its overall business activities as a whole to ensure that all staffing decisions are made in accordance with its ongoing viability and not in restricted to “pockets” of the business.

Except in the case of business confidentiality is required, [TAFE] shall consult as much as practical to enable staff members to provide alternatives to job losses.

Circumstances may include:

- Restructure, resulting in fewer positions being required to conduct the business of the organisation (including efforts to minimise duplication of positions arising from amalgamation);
- Changes in work methods, such as the introduction of new technology which may make the position unnecessary; and
- Financial incapacity to support the number of personnel in the organisation.

Within the education sector, circumstances affecting teaching staff may also include:

- Insufficient student numbers to support a course or subject;
- Changes in course content, resulting in different expertise required of teaching staff; and
- The decision to withdraw courses or subjects from the curriculum.

Because these management decisions have such a critical impact on staff it is essential that consultative, fair and equitable processes are established to deal with redundancy. These processes include exploring suitable redeployment and retraining options.

Redundancy pay is sometimes referred to as retrenchment pay or a Target Separation Package (TSP). Precedents for the terms and conditions applicable to redundancy pay have been established through Awards, State Government Policy and, in some instances, Workplace Agreements. Such precedents have been reached through determination or negotiation, resulting in processes that are generally acceptable to employers and employees. The policy and procedures included here are drawn from existing Awards Workplace Agreements and State Government Policy, developed through consultation and negotiation over a long period of time.

### Purpose

To ensure that, in the event of decisions likely to result in the redundancy of any employee or group of employees within the Institute, processes are followed which are fair, reasonable and equitable and do not disadvantage any person with regard to benefit entitlements or future employment opportunities.

Excluded from this policy are casual employees, fixed term (maximum term) contract employees and employees on probation.

### Policy

Where the Institute has decided that a position(s) is surplus to the requirements of the organisation, and that such a decision is likely to result in the termination of employment of one or more staff,

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discussions will be held with employees who may be affected by that decision and, where appropriate, the relevant Union. Until employees are issued with a notice of redundancy, they should be referred to where necessary as being potentially redundant, rather than redundant.

Prior to implementation of any changes which may result in staff redundancies, Institute management will consult with employees concerned and, where appropriate, the Union regarding reasons for the proposed changes, measures to avoid or minimise the terminations and measures to reduce any adverse effects of any terminations on the employees concerned.

For the purposes of such consultation, the Institute will provide in writing to employees and, where appropriate, the Union all relevant documentation regarding the proposed changes. This will include details of the likely date and method of implementation of the changes, the number and category of employees likely to be affected, and the expected effects of the change on employees. Such documentation should be provided at least two weeks prior to formal consultation.

Where the Institute has determined that there are excess staff, the relevant staff and, where appropriate, the Union will be provided at least one week prior to formal consultation with details regarding:

- The number, classification and location of employees affected who are likely to be excess to Institute requirements;
- Proposed changes in staffing structure, projected student enrolments, planned fee for service activity, the number and classification of employees affected, and the number and classification of employees expected to be required for performing the functions within the relevant Branch, Department or Division of the Institute; and
- Where relevant, the merit-based selection processes that the Institute has developed for selecting employees from a group for redeployment and/or redundancy.
- Redeployment, retraining and voluntary departure/retranchment that will be explored as a primary option prior to any decisions resulting in termination of employment. The Institute reserves the right to accept or reject any applications for voluntary departures.
- Any other relevant information as may be reasonably requested

When the Institute decides that consultation has not prevented a redundancy, it will implement the selection process (where necessary) and then formally notify employees that their employment will be terminated on the grounds of redundancy following an 8-week transition period (see sample redundancy letter).

Redeployment will be considered as a primary option prior to any decisions resulting in termination of employment.

Where the employee does not accept an offer of redeployment to a position of the same or equivalent remuneration that is appropriate to their skills, experience and qualifications, the employee will be informed that their employment will be terminated for refusing to carry out a lawful and reasonable instruction and that no retranchment pay will apply.

During the transition period the Institute, through the Human Resources Department, will offer retrenched employees assistance with preparation of their curriculum vitae and counselling.

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Where the Institute is unable to make an offer of redeployment to a suitable alternative position, the employee's employment will end on a date specified in the redundancy letter and the employee will be paid the redundancy pay.

Where the Institute offers suitable redeployment for the employee, retrenchment pay will not apply.

Redundancy pay entitlements under this policy are in accordance with relevant Agreement, Award provisions where they exist or consistent with Victorian Government policy applying at the time.

When the Institute decides that consultation has not prevented a redundancy, it will implement the selection process (where necessary) and then formally notify employees that their employment will be terminated on the grounds of redundancy following an 8-week transition period (see sample redundancy letter).

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Redundancy pay entitlements under this policy are in accordance with relevant Agreement, Award provisions where they exist or consistent with Victorian Government policy applying at the time.

In the case of multiple redundancies, Centrelink shall be contacted.

Where possible, voluntary redundancy packages may be offered (that is, [TAFE] may be able to relocate staff from redundant positions into those positions vacated by the voluntary redundancy).

Under no circumstances is redundancy to be used as an expedient way to dismiss a member of staff. This is contrary to [TAFE] Policy, and workplace and taxation laws.

The **Victorian TAFE Teaching Staff Agreement 2018** provides that the following process must be followed:

This clause does not apply to:

- casual Employees; and
- Employees engaged on a fixed-term contract whose employment ends because of the expiry of the fixed-term.

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The Employer will adopt the following process to identify Employees in excess of Employer requirements and therefore to be considered for selection.

The Employer will convene meetings of potentially affected Employees to seek volunteers. The Employer may only reject an expression of interest from any volunteer where selection of that Employee creates a consequential vacancy or a deficit in the skills required for the Employer's continuing function.

Where insufficient volunteers or too many volunteers are forthcoming, the Employer will determine those Employees in excess of its requirements taking into account the following criteria:

- the required qualifications, skills and abilities between Employees as required for the continuing operation of the program;
- any special qualifications or aptitude for the position/s continuing to be required to be performed by the Employer; and
- any reasons, including compassionate grounds, advanced by an Employee as to why they should not be considered for redeployment.

Provided that where a decision is to be made about Employees who are otherwise considered equal in relation to these criteria, the Employee to be identified as excess to Employer requirements will be that person whose selection causes the least disruption to the continuing operation of the Employer.

Subject to this clause, the parties agree that Employer policies in relation to redeployment and termination of employment are to apply for the life of this Agreement. Such policies may only be varied following consultation and agreement with the Union. It is acknowledged that such policies are not to be taken to abrogate any rights an Employee may have in equity or in law.

### Redundancy pay

An Employee is entitled to redundancy pay in accordance with the FW Act, except to the extent that the table below provides for a greater benefit. This does not prevent an Employer from applying a more generous policy with respect to redundancy pay.

Period of Continuous Service	Redundancy pay
At least 1 year but less than 2 years	4 weeks
At least 2 years but less than 3 years	6 weeks
At least 3 years but less than 4 years	7 weeks
At least 4 years but less than 5 years	8 weeks
At least 5 years but less than 6 years	10 weeks

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At least 6 years but less than 7 years	12 weeks
At least 7 years but less than 8 years	14 weeks
At least 8 years but less than 9 years	16 weeks
At least 9 years but less than 10 years	18 weeks
At least 10 years	20 weeks

### **“Suitable employment” under the Fair Work Act**

In *National Union of Workers v Tontine Fibre* where the Full Bench stated:

*“The onus of establishing that the alternative employment in question is acceptable rests with the applicant employer. In order to establish whether the alternative employment obtained by the employer is acceptable it is necessary to have regard to such matters as pay levels, hours of work, seniority, fringe benefits, workload and speed, job security and other matters (including the location of the employment and travelling time). It is also quite clear from the text of the provision that the Commission may remove the employer’s severance benefit obligations completely or may simply reduce them.”*

### **Redundancy under the Fair Work Act 2009**

The redundancy process is one fraught with many employment law issues. In the following decision it got down to the employer choosing one employee over the other. The SDP in this case has made it clear, insofar as the person chosen for redundancy is not done on the process does not breach (say) discrimination laws, it is up to the employer who they believe is best suited to carry on the business.

In *Ms Penelope Behan v Risk Strategies Pty Ltd* (U2014/1677) [2014] FWC 7176 SENIOR DEPUTY PRESIDENT RICHARDS):

The Applicant in this case contended that as of early March 2014 the employer was in a potentially buoyant business environment for reasons of a new marketing program and that there was a prospect of additional employment opportunities as a result.

Around September 2013 the employer employed a consultant, whom it promoted to a senior consultant position in March 2014.

A little less than two weeks following the promotion of the new senior consultant, the Applicant received the redundancy correspondence as set out above.

The Applicant contended - as far as I interpret the Applicant’s submission - that the redundancy could not be genuine redundancy as she was merely shunted aside, as it were, by another consultant promoted into her position. This indicated that the Applicant’s position was never made redundant as such, but it was that a newly promoted employee stepped into her position and she was dismissed.

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The SDP's view was that:

*"...the Act does not extend to an examination of the reasons for the selection of the Applicant's position for redundancy:*

*Whether a dismissal is a genuine redundancy does not go to the process for selecting individual employees for redundancy. However, if the reason a person is selected for redundancy is one of the prohibited reasons covered by the general protections in Part 3-1 then the person will be able to bring an action under that Part in relation to the dismissal.*

*"The Applicant may have another avenue for a remedy if she had been selected for redundancy because of her gender or family responsibilities, and so forth. Such grounds may support an application under Part 3-1 of the Act. But no such argument was made here, and this application would not have been an appropriate forum for such concerns to be agitated.*

*"In the circumstances here, the process of selection of the Applicant's position for redundancy (vis a vis the other senior consultant in the Brisbane office) is not a relevant consideration for the determination of the jurisdictional question."*

### Summary checklist

- ☐ Organisational review determines positions surplus to requirements.
- ☐ Employees and, where appropriate, the Union are advised of proposed changes and input sought from relevant parties regarding consequences of proposed change.
- ☐ Consultation schedule established.
- ☐ Two weeks prior to commencement of formal consultations, Institute provides employees and, where appropriate, the Union/s with documentation regarding change proposals including reason/s for potential redundancies.
- ☐ One week prior to commencement of formal consultations, Institute provides employees and, where appropriate, the Union/s with documentation regarding processes for:
  - Mitigating against targeted redundancies (such as options available regarding redeployment or voluntary departure/retrenchment) and
  - Identifying redundant staff from a group, where this may be necessary (such as merit based selection process).
- ☐ Consultation process occurs.
- ☐ Institute decides that consultation process has ended and has not prevented redundancy.
- ☐ Institute selects redundant employee/s based on merit.
- ☐ If the employee/s to be made redundant are members of the New or Revised Superannuation Scheme, the Institute must first contact HESG in accordance with Ministerial Directions.

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- ☐ Institute meets relevant employee/s and issues notice of termination on the grounds of redundancy to be effective on a specified date following an 8 week transition period.
- ☐ Institute further explores suitable redeployment during 8 week transition period.
- ☐ Institute still finds no suitable redeployment for employee/s during 8 week transition period.
- ☐ Retrenchment entitlements are paid to employee/s terminated on the grounds of redundancy.

### Termination of probationary employment

If at any time during the probationary period a staff member's progress is considered by [TAFE] to be unsatisfactory; or if the staff member is not satisfied with the position or [TAFE], either the staff member or [TAFE] may terminate the employment subject to the giving of one (1) weeks' notice.

Notice may be paid in lieu or forfeited as the case may be.

Probationary periods cannot be extended beyond six (6) months. It is important for managers and staff to ensure that expectations have been considered and communicated by the parties during the probationary period. There are template forms to assist in this process.

### Termination on the grounds of ill health

#### Not Workers Compensation

Where the staff member is unable to fulfil the inherent requirement of their position due to health issues unrelated to their employment at [TAFE], the staff member may be required to be medically examined by [TAFE] nominated medical practitioner.

In such cases the medical examination will be preceded by a letter to the medical practitioner requesting:

- Prognosis of the medical condition
- Attach a copy of the Job Description
- Ask if the staff member can perform the inherent requirements of the job
- Ask how long the staff member's duties will be restricted by their medical condition
- What are those restricted duties
- When will the staff member be able to return to their original duties

If the medical examination reveals that the staff is unable to perform assigned duties and is unlikely to be able to resume them within a reasonable time frame, [TAFE] will use its best endeavours to transfer the staff member to a suitable position.

Where the staff member cannot be allocated to a suitable position, [TAFE] may then terminate the employment.

Failure by the staff member to undergo a medical examination as requested will be taken as evidence that the staff member is unable to perform their assigned duties. [TAFE] may then proceed with action to terminate the employment.

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In instances where [TAFE] decides to terminate employment on the grounds of ill health the standard notice period will apply.

### Temporary Absence

This section is not applicable to workers compensation absences.

The Fair Work Act and Regulations provide that an employer must not dismiss a staff member because the staff member is temporarily absent from work because of illness or injury unless the staff member's absence extends for more than three (3) months, or the total absences of the staff member, within a 12-month period, have been more than 3 months. This is exclusive of an absence on paid personal/carer's leave.

A staff member absent on workers compensation is not considered to be absent on a period of paid personal/carer's leave.

### Workers Compensation

Terminating an employee whilst on workers compensation is covered by *Workplace Injury, Rehabilitation and Compensation Act 2013* (or the Accident Compensation Act 1985 (for claims lodged before 1/7/14). This Act(s) provide that employers are required to provide injured workers with a job the same as or equivalent to the one the injured worker was doing before the injury or illness. Alternatively, if the worker is unable to return to this position but has a current work capacity, the employer is required to provide the worker with suitable employment. This requirement applies for the first 12 months of incapacity to work, unless the employer can show this would cause unjustifiable hardship for the employer.

Steps in terminating an ill or injured employee

The employment relationship can only be terminated in a procedurally fair way, in accordance with the following steps, in that [TAFE] is able to demonstrate that it:

- Communicated with the treating medical practitioner and the staff member
- Is unable to sustain the restricted duties role/absence
- Did everything in its power to keep the role available

### Notice Periods

[TAFE] staff shall be paid or provided with notice of termination in accordance with:

- The staff member's contract of letter of employment or EBA; or where there is no such contract or letter of employment;
- The Fair Work Act 2009 (Cwth).

At the discretion of [TAFE], a shorter period of notice may be agreed or paid out in lieu of working.

If a staff member fails to give the required notice, [TAFE] may withhold salary not greater than the amount that the staff member was required to provide.

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### Return of [TAFE] Property

Any staff member who is leaving the employ of [TAFE] is required to return all [TAFE] property in good condition. Property belonging to [TAFE] may include, but is not limited to: equipment, vehicles, mobile phones, files, protective clothing, access keys, and computer hardware and software.

It is the responsibility of the manager/supervisor of any staff member who is leaving the employ of [TAFE] to ensure that such property is returned prior to the cessation date. A checklist has been developed to assist managers/supervisors complete this process.

### Exit Interviews

All staff leaving the employment of [TAFE] on a voluntary basis shall be requested to undertake an exit interview. Feedback from these interviews will assist [TAFE] in its quality improvement process, which will lead to better job performance, client service and employee retention strategies.

Exit interviews are to be undertaken either:

- In person (preferable)
- Over the telephone
- By e-mail or post

Exit interviews are not to be carried out by the staff member's immediate manager.

The staff member is to be advised that:

- The information is highly confidential
- Will not become part of their permanent employment record (ie kept on a separate file from the personnel file)
- The interview is to determine what motivated the staff member to resign their employment
- The interview is part of [TAFE] continuous improvement process

Completed interview forms are to be sighted by the HR Manager.

The HR Manager shall ensure that all reasons for leaving (and comments) are recorded to determine trends and assist in developing staff retention strategies.

### Fair Work Act 2009 Requirements for termination

Utilising the case in *Mark Baldwin v Scientific Management Associates (Operations) Pty Ltd (U2014/390) [2014] FWC 5174 Gostencnik, DP*, the following is a dialogue on a typical consideration of a FWC member.

The DP in finding against the applicant was required to consider:

- Whether the application was made within the period required (21 days).
- Whether the person was protected from unfair dismissal (ie size of business).
- Whether the dismissal was consistent with the Small Business Fair Dismissal Code.

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- Whether the dismissal was a case of genuine redundancy.

### **“Harsh, unjust or unreasonable”**

In considering whether it is satisfied that a dismissal was harsh, unjust or unreasonable, the FWC must consider:

- Whether there was a valid reason for the dismissal related to the person’s capacity or conduct (including its effect on the safety and welfare of other employees); and
- Whether the person was notified of that reason; and
- Whether the person was given an opportunity to respond to any reason related to the capacity or conduct of the person; and
- Any unreasonable refusal by the employer to allow the person to have a support person present to assist at any discussions relating to dismissal; and
- If the dismissal related to unsatisfactory performance by the person—whether the person had been warned about that unsatisfactory performance before the dismissal; and
- The degree to which the size of the employer’s enterprise would be likely to impact on the procedures followed in effecting the dismissal; and
- The degree to which the absence of dedicated human resource management specialists or expertise in the enterprise would be likely to impact on the procedures followed in effecting the dismissal; and
- Any other matters that the FWC considers relevant.

### **Valid reason**

There must have been a valid reason for the dismissal of the Applicant related to the Applicant’s capacity or conduct, although it need not be the reason given to the Applicant at the time of the dismissal.

The reason should be *“sound, defensible and well founded”* and should not be *“capricious, fanciful, spiteful or prejudiced.”* Where, as in the present case, the Respondent relies on conduct of the Applicant to justify its decision to terminate his employment, I must be satisfied that the conduct as alleged by the Respondent occurred. A mere suspicion of conduct does not amount to a valid reason.

### **Notification of the valid reason**

Notification of a valid reason for termination should be given to an employee protected from unfair dismissal before the decision is made, in explicit terms and in plain and clear terms

“As a matter of logic procedural fairness would require that an employee be notified of a valid reason for their termination before any decision is taken to terminate their employment in order to provide them with an opportunity to respond to the reason identified. Section 170CG(3)(b) and (c) would have very little (if any) practical effect if it was sufficient to notify employees and give them an opportunity to respond after a decision had been taken to terminate their employment. Much like shutting the stable door after the horse has bolted.”

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The requirement to notify of the reason, together with the requirement to provide an opportunity to respond to the reason in s. 387(c), involves consideration of whether procedural fairness was afforded the Applicant before his dismissal was affected. Satisfaction of the notification requirement will usually require a straightforward factual inquiry to be made, namely: what was the Applicant told about the reason for the dismissal, before the dismissal took place?

### **Opportunity to respond**

An employee protected from unfair dismissal should be given an opportunity to respond to any reason for dismissal relating to the conduct or capacity of the employee. The consideration of whether and to what extent that opportunity was given is to be applied in a common-sense way to ensure the employee is treated fairly and should not be burdened with formality.

In considering whether the Commissioner was satisfied that the dismissal of the Appellant was harsh, unjust or unreasonable the Commissioner was required to take into account, *inter alia*, whether the Appellant was given an opportunity to respond to any reason related to his capacity or conduct. This opportunity must have been afforded to the Appellant **before a decision to dismiss is made** [my emphasis]. The process involved in providing the Appellant with such an opportunity does not require formality and is to be applied in a common-sense way, to ensure that the Appellant has been treated fairly. In this regard we reject so much of the Appellant's submissions which asserts that this requires an employer to conduct a meeting with the employee to inform the employee of the reasons for the proposed dismissal or otherwise provide the employee with an opportunity to address the concerns in writing."

### **Unreasonable refusal by the employer to allow a support person**

If an employee protected from unfair dismissal has requested that a support person be present to assist in discussions relating to the dismissal, the employer should not unreasonably refuse to allow that person to be present.

### **Warnings regarding unsatisfactory performance**

If an employee protected from unfair dismissal is dismissed for the reason of unsatisfactory performance, the employer should warn the employee about the unsatisfactory performance before the dismissal. Unsatisfactory performance is more likely to relate to an employee's capacity than their conduct. For the reasons given earlier in this decision I am satisfied that the Respondent dismissed the Applicant for reasons relating to conduct and not his performance.

### **Impact of the size of the Respondent on procedures followed**

The size of the Respondent's enterprise did not impact on the procedures followed by the Respondent in effecting the dismissal. Nor was any submission made by either party, which would suggest that this factor is a material consideration in the context of this case.

### **Absence of dedicated human resources management specialist/expertise on procedures followed**

The absence of dedicated human resource management or expertise in an employer's enterprise may also impact on the procedures followed by an employer in effecting a dismissal. The evidence in this case so far as it relates to this consideration is uncontroversial. It is clear that the Respondent

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not only had access to dedicated human resources expertise but that it used that expertise. This factor is a neutral consideration in the context of this application.

### Other relevant matters

I have considered that the Applicant had not been previously counselled about his use of inappropriate language. I do not place much weight on this fact because it is not suggested that the Applicant has previously used highly offensive and personalised language directed towards a superior and that this has been tolerated. Moreover, the Applicant has accepted that he had received training about appropriate conduct and language.

I have also taken into account, that which appears to be accepted by the Respondent, that the environment in which the Applicant worked, which is controlled by the Australian Army, is one in which a degree of swearing appears to be tolerated and where swearing is not uncommon. However as I have indicated above, there is a qualitative difference between swearing in the workplace *per se*, and swearing at a manager that involves highly offensive and personalised language.

Finally, I have taken into account the fact that the Respondent accepts that a relevant factor in determining whether the Applicant's employment should have been terminated and in assessing the seriousness of the conduct was the Applicant's anxiety condition, and relevantly, whether that condition contributed to his behaviour on 20 January 2014. The Applicant did [not] call any medical evidence which would suggest that his condition contributed to his conduct...Ultimately I have come to the view that this is not a factor which weighs in the Applicant's favour.

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### Retraining

#### Preamble

This policy should be considered in association with *Redeployment*, in cases where [TAFE] is able to offer the affected employee accepts suitable redeployment position, to obviate against the need for a redundancy.

While the impetus for training in a redeployment situation differs from training normal circumstances, the processes involved are not greatly different.

Key factors include:

- Identifying training needs;
- Specifying training/learning outcomes;
- Participation in appropriate training activities; and
- Assessment and review of application of learning.

The major issues to face when considering retraining are the motivation of the employee to gain new skills and knowledge, and the need to provide a supportive environment where these can be applied.

It is important to try to maximise the correlation between the Institute's needs and the employee's preferred career options, building a positive environment for the retraining program. Building on existing skills and ambition, rather than embarking on an entirely new discipline will most likely achieve more positive results.

In some instances, managers of redeployed staff may need to allow more time for them to demonstrate competence, or additional counselling and assistance may be required for the employee to adjust to changed circumstances.

It is important that where retraining has been identified as necessary in order for the employee to carry out new duties required when redeployed, the manager of the new position works closely with the staff member to develop a training plan that addresses the key factors described above.

Where the employee is well supported by their manager/supervisor there will be greater likelihood of a successful transition into the new position.

#### Purpose

To ensure that, where staff have been redeployed within the Institute, they are provided with adequate and appropriate retraining to enable them to fulfil the requirements of the new position.

#### Policy

Where staff are redeployed, consultation will take place between the employee, the releasing manager/supervisor and the accepting manager/supervisor to determine retraining needs.

Reasonable retraining will be offered where appropriate as part of the redeployment process.

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Employees will not be expected to retrain for positions that vary significantly from their professional interest and expertise.

Where retraining is undertaken as part of the redeployment process the employee and accepting manager/supervisor will develop a clear training plan incorporating:

- Expected outcomes;
- Implementation details;
- Timelines; and
- Review processes.

The Institute will be responsible for all required costs incurred in retraining.

### Key implementation guidelines

Training needs are determined through consultation between the employee, the releasing manager/supervisor and the accepting manager/supervisor.

The employee and the accepting manager/supervisor develop a training plan, outlining:

- Training objectives;
- Training provision (when, where, how, etc.);
- Timelines;
- Evaluation and review procedures; and
- Support mechanisms available to the employee.

The employee undertakes retraining activities and is evaluated according to the training plan.

Constant feedback and practical on-the-job support is provided in implementing the training knowledge acquired.

### Summary checklist

- ☐ Training needs identified.
- ☐ Consultation between previous and new manager.
- ☐ Training plan determined.
- ☐ Retraining undertaken, and performance evaluation carried out according to training plan.
- ☐ On completion of retraining, evaluate the retraining process.

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## INDUSTRIAL RELATIONS

### Industrial Relations Policy

[TAFE] is committed to managing all matters involving Industrial Relations in a professional manner and in compliance with legislative requirements. The [Director] has the responsibility to ensure the [TAFE] industrial relations policy is followed to minimise any potential business risks associated with industrial relations matters, particularly disputation with employees, contractors and unions.

[TAFE] maintains its awareness of obligations as an employer and is committed to operate within various State and Federal laws. These include the following:

- Pay wages in accordance with relevant Industry Awards, Individual Flexibility Agreements, or approved Enterprise Bargain Agreement(s). These legal requirements may be complemented (but not substituted) by common law Contract of Employment.
- Register employees with the relevant Workers Compensation Authority.
- Comply with its obligations under the Superannuation Acts.
- Comply with relevant State legislation regarding Long Service Leave.
- Comply with its obligations under the Fair work Act 2009 or appropriate State legislation about right of entry, freedom of association and the dispute resolution procedures.
- Provide detailed pay for all employees as required by the Fair work Act 2009 (including record keeping and payslips).
- Other agreements whether reached on a site/project or industry basis may be adopted as needed to maintain industrial stability and meet client requirements, insofar that they in accordance with the Fair work Act 2009.
- Where involved in Commonwealth Government funded building works, comply with the requirements of the *Code for the Performance of Building work 2016*.

This Industrial Relations Policy supports the Company's Business Plan and is approved and supported at senior management level, however, industrial relations will be a shared responsibility for all [TAFE] staff especially supervisors who will be supported by specific training where required.

[TAFE] employees may seek supported from a peak employer body (that is expert in the industry) or another expert in relation to Industrial relations matters.

[The Director] (or delegate) is the contact point to discuss and clarify industrial relations matters.

[TAFE] supervisors shall immediately report IR matters of emerging concern to the [Managing Director] who will develop strategies to manage the issues.

[TAFE] may use the Fair Work Commission as part of the [TAFE] dispute resolution process but only after other [TAFE] initiatives have failed. [TAFE] may use other dispute resolution processes as agreed within [TAFE], such as [TAFE] Consultative Committees or Dispute (or Grievance) procedures established under the [TAFE] EBA or award.

### Grievance Management Policy

#### Purpose

To outline how grievances, disputes and complaints (referred to in this document as 'grievances') are managed at [TAFE].

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## A Manual for Best Practice in Employment Relations and OH&S

The aim is to support a work and study environment where staff, students and visitors feel confident to raise concerns (academic, administrative or interpersonal/behavioural) in the knowledge that they will be addressed appropriately and respectfully, in a fair and timely manner.

For this to happen, the [TAFE] aims to provide an environment where:

- It is acceptable to lodge a grievance.
- The person lodging a genuine grievance knows that they will not be penalised or disadvantaged as a result of lodging a grievance.
- There is confidence that the grievance will be given due consideration by, and will receive a response from, the [TAFE].

The policy does not apply to disputes raised under the provisions of the [TAFE]'s industrial instruments.

### Overview

This policy recognises that effective grievance management contributes to an improved work and study environment for all members of the [TAFE] community.

This policy also provides an opportunity to improve our student and staff experience by identifying areas of risk and areas for improvement.

Grievance management at [TAFE] is guided by the following principles:

- Procedural Fairness.
- Resolution at the local level where possible.
- Respect for all parties.
- Transparency.
- Timely and effective management.
- Consistency.
- Responsiveness.
- Ethical practice.
- Awareness of equity principles.

This policy demonstrates the [TAFE]'s commitment to these principles.

### Policy

**A Grievance is a** resentment about the conduct of an individual that is seen as producing an injustice or some wrong or offence that is grounds for action by the person with the grievance.

The [TAFE] will ensure individuals are aware of the appropriate grounds for a grievance, their right to lodge a grievance and the procedure for lodging a grievance.

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The [TAFE] may choose not to act on a grievance that it views as malicious or vexatious.

Individuals involved with grievances are required to treat matters with appropriate confidentiality and discretion.

### Case management approach

The [TAFE] has adopted a case management approach to grievance handling. The nature of the concerns raised will determine which area of the [TAFE] takes primary case-management responsibility. Communication between internal agencies may then be required (for example, where grievances are between students and staff; or where grievances have many component allegations).

The [TAFE] has adopted a case management approach to grievance handling, as follows:

### Staff Grievances – Discrimination or Harassment

Staff grievances involving allegations of discrimination or harassment will be managed through the Anti-Bullying and Harassment Policy.

### Staff Grievances - Employment

Staff grievances involving employment related issues will be managed in accordance with the relevant provisions of the Enterprise Agreements. Such allegations may include:

- Administrative procedures.
- Staff relations.
- Interpersonal conflict and disagreements.
- Workload allocations.
- Performance issues.
- Allegations of bullying

### Visitors, Contractors, Volunteers

Grievances from, or concerning, visitors, contractors or volunteers should be referred to the Director, Human Resources (in the case of grievances concerning staff).

### Enquiries & Anonymity

Staff can seek information and advice about matters of concern without being required to lodge a formal grievance. The aim is to resolve a perceived / potential grievance as early and effectively as possible and avoid any undue escalation.

Initial enquiries can be made anonymously, however, the [TAFE] is committed to the principle of natural justice (i.e. giving individuals the right to respond to specific allegations made against them). The [TAFE] will not normally act on anonymous formal grievances lodged against individuals.

Where an enquiry concerns allegations of structural or systemic discrimination, the [TAFE] will determine if there is scope for further investigation.

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### Witnessing grievance issues

A grievance may be lodged by a witness or bystander on the basis of its impact on them. A grievance will not be accepted where it is lodged on behalf of another person.

### Involvement of external agencies

Nothing in this policy in any way interferes with a person's right to take their matter to external agencies.

The [TAFE] may choose not to proceed (or continue to proceed) managing or investigating a grievance when it is also lodged with an external agency such as the Anti-Discrimination Board, Human Rights Commission, or Court.

### Compliance & Breaches

The [TAFE] may commence applicable disciplinary procedures if a person to whom this policy applies breaches this policy (or any of its related procedures).

### Contact Officers

[INSERT].

### Industrial action

Industrial action can take a variety of forms. For example, employees may go on strike (that is, refusing to attend or perform work) or impose work bans (that is, refusing to perform all their normal duties). Employers may lock out their employees (that is, refusing to allow them to work or to pay them).

### Protected industrial action

In general, for industrial action to be lawful it must be protected industrial action.

The requirements for taking protected industrial action include:

- An existing agreement has passed its nominal expiry date.
- The industrial action is in support of a new enterprise agreement (or is in response to industrial action by the other side).
- The industrial action does not involve pattern bargaining.
- In the case of employees initiating action in support of claims, the Fair Work Commission has granted an order for a protected action ballot to be held and the ballot has endorsed action being taken.
- The required notice has been given to the other party.
- The bargaining representative(s) organising the action or representing the employees who are taking or organising the action, must be genuinely trying to reach agreement.

Industrial action will not be protected if it:

- Is taken while the bargaining period has been suspended;

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- Relates significantly to a demarcation dispute;
- Is in support of claims for a multi-enterprise or greenfields agreement;
- Is in support of the inclusion of claims that cannot be lawfully included in an agreement (these are known as unlawful terms); or
- Contravenes any orders made by the Fair Work Commission.

### Disputes under awards & agreements

The Fair Work Commission (the Commission) can assist with a dispute if the dispute arises under:

- A national system award or enterprise agreement containing the 'model term for dealing with disputes', or
- A national system award or agreement containing a dispute resolution procedure that allows for the Commission's assistance.

In this type of dispute, the Commission can only exercise the powers outlined in the dispute resolution procedure or agreed to by the parties.

The Commission may assist with a dispute by mediation or conciliation, or by making a recommendation or expressing an opinion. The Commission may arbitrate the dispute if the dispute resolution procedure allows it or the parties agree.

### Model dispute resolution procedure

Enterprise agreements are required to contain a procedure for dealing with disputes.

Parties to an agreement can agree on a procedure or adopt the model term specified in Schedule 6.1 of the Fair Work Regulations 2009 ([www.fwc.gov.au/about-us/legislation-regulations/fair-work-regulations-2009](http://www.fwc.gov.au/about-us/legislation-regulations/fair-work-regulations-2009)).

The model term provides for a party to the dispute to refer the matter to the Commission or its predecessor Fair Work Australia if discussions at the workplace level do not achieve a resolution.

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### Making an enterprise agreement

#### Preamble

The Victorian Government usually sets the standards for agreement making – up to the point of lodgement.

The following deals with ensuring that your agreement complies with the requirements of the Fair Work Act 2009.

#### Introduction

There are three types of agreements:

- Single-enterprise agreements.
- Multi-enterprise agreements—covering more than one business or enterprise.
- Greenfields agreements—covering new enterprises.

#### What can and cannot be included

There are terms that must be included in an enterprise agreement. These include terms relating to:

- Rates of pay.
- Penalty rates and overtime.
- Allowances.
- Standard hours.
- Personal and annual leave.
- Deductions from wages for any purpose that is authorised by the employee.
- Any matters pertaining to the relationship between the employer and the employees.
- Matters pertaining to the relationship between the employer and employee .organisations covered by the agreement.
- How the agreement will operate.

#### Mandatory terms

There are some terms that **must** be included in all agreements:

- A coverage term that explains who the agreement covers—e.g. all employees of an employer.
- A consultation term that requires employers to consult with employees if there are major changes to the business or a change to their regular roster or ordinary hours of work.
- A dispute resolution term that allows disputes under the agreement and/or the National Employment Standards to be referred to the Commission or an independent person, and for an employee who is party to the dispute to appoint a representative at any stage of the procedure.
- A flexibility term that allows an employee and his or her employer to agree to an individual arrangement varying the effect of the enterprise agreement.

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- A nominal expiry date which is the date when the agreement will expire; it must be within four years of when the Commission approves the agreement.

While the nominal expiry date and coverage term are determined by the parties, there are examples of dispute resolution and model flexibility and consultation terms on the Fair Work Commission website that can be included in your new enterprise agreement.

### Unlawful and objectionable terms

There are certain terms that **cannot** be included in an enterprise agreement. These are called unlawful or objectionable terms and include:

- Discriminatory terms.
- Terms that breach the general protections provisions in Part 3-1 of the Fair Work Act 2009.
- Terms that require a bargaining services fee to be paid.
- Terms inconsistent with the unfair dismissal provisions in the Fair Work Act.
- Terms that modify the law relating to industrial action in Part 3-3 of the Fair Work Act.
- Terms relating to right of entry which are not in accordance with Part 3-4 of the Fair Work Act.
- A term that would enable an employee or employer to 'opt out' of coverage of the agreement.
- A term that requires superannuation contributions for default fund employees to be made to a superannuation fund, unless that fund:
  - Offers a MySuper product;
  - Is an exempt public sector scheme; or
  - Is a fund of which a relevant employee is a defined benefit member.

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### What does the Commission consider when approving an Agreement?

Once you lodge your Agreement with the Commission you may be contacted by staff of the Commission who will check your application to ensure all relevant information has been provided and forms are complete. The Agreement will then be allocated to a Member of the Commission who will assess it against the requirements of the Act. Before the Member can approve the Agreement, he or she must be satisfied about a number of matters including that:

- the pre-approval requirements have been met
- the Agreement was genuinely agreed to by the employees covered by the Agreement
- the terms of the Agreement do not contravene the National Employment Standards
- employees will be 'better off overall' under the Agreement at test time than they would be under their applicable modern award(s)
- the group of employees covered by the Agreement was fairly chosen
- there are no unlawful or designated outworker terms in the Agreement
- the Agreement specifies a nominal expiry date and that date will not be more than 4 years after the day on which the Commission approves the Agreement
- other requirements relating to good faith bargaining and particular kinds of employees have been complied with
- the Agreement includes a compliant dispute resolution term, flexibility term and consultation term

For further information see Parts 2-2 and 2-4 of the Act.

### Better off overall Test (BOOT)

The Commission Member needs to be satisfied that the Agreement passes the BOOT. An Agreement will pass the BOOT if the Commission Member is satisfied that at the time the application for approval is lodged with the Commission, each current and future employee who will be covered by the Agreement, will be better off overall if the Agreement applies to them rather than the relevant modern award. The Agreement will only apply to an employee once it is approved by the Commission.

The BOOT requires the identification of Agreement terms which are more beneficial and less beneficial when compared to the relevant modern award.

An Agreement may pass the BOOT even if some award benefits have been reduced or removed entirely, so long as overall those reductions are more than offset by the benefits under the Agreement. However, an Agreement cannot set a base rate of pay for an employee that is less than the base rate of pay in the relevant modern award.

If your Agreement meets all of the requirements, including the BOOT, the Commission Member must approve it without any changes.

The Commission Member may ask you for more information if the material you have provided is not clear or does not allow for the Agreement to be properly assessed.

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### Checklist for making a Single Enterprise Agreement

This checklist aligns to and should be read in conjunction with the [Making a Single Enterprise Agreement step by Step guide](#).

#### Step 1 – Prior to Bargaining

Develop a plan for communicating with your employees

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#### Step 2 – Commence Bargaining

Enter the date of notification

(The date you started, or agreed to start bargaining)

The date you gave your employees the Notice

(As soon as possible and within 14 days from the notification time)

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#### Step 3 – Developing the terms

The Agreement will pass the better off overall test (BOOT)

No term is detrimental to an employee when compared to the NES

Agreement specifies the employer and the employees to be covered and the work that employees will perform

Includes dispute resolution, consultation and flexibility terms which comply with the requirements in the Act

Nominal Expiry Date is no more than 4 years from the date agreement is approved by Commission

---

#### Step 4 – Vote on the Agreement

##### Comply with the requirements of the access period

Advise employees of the date, time, place of the vote and the method

Employees have been given a copy of, or been given access to, the proposed Agreement and any other incorporated material

Terms of the Agreement have been explained to employees

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Enter the date the access period commences

The date voting commences

(Must be at least 21 days after you gave employees the Notice and 7 days after the access period commenced)

The date the Agreement is made (voting stops)

(Majority of employees who cast a valid vote voted to approve the Agreement)

---

### Step 5 – Lodge with the Commission

Lodge the Agreement and supporting documentation within 14 days after the Agreement is made

Application Form F16

Employer's Statutory Declaration Form F17

A copy of the Notice of Employee Representational Rights (as provided in Step 2)

A signed copy of the Agreement

---

### Step 6 – Approval of your Agreement

Your Agreement will come into operation 7 days after the Commission Member approves it unless a later date is specified in the Agreement.

For further information on Agreements you can refer to the Commission's

[Enterprise Agreement Benchbook](#).

Commission Member may ask you to re-lodge documents or provide additional material that will help in the assessment of the Agreement.

### General protections & Adverse Actions

Historically protections from unlawful actions being taken in or in relation to the workplace have been scattered throughout legislation. The introduction of the Fair Work Act saw these provisions collected together in a single Part.

The principal protections have been divided into:

- Protections relating to workplace rights (which can be broadly described as employment entitlements and the freedom to exercise and enforce those entitlements);
- Engaging in industrial activities (which encompasses the freedom to be or not be a member or officer of an industrial association and to participate in lawful activities, including those of an industrial association);
- Other protections including protection from discrimination; and

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- Sham arrangements.

Certain persons, including employers, principals, employees and industrial associations; are prohibited from taking adverse action against certain other persons because the other person has, or exercises, a workplace right, or engages in industrial activity. Adverse action includes dismissal of an employee but also includes a range of other action such as prejudicing an employee or independent contractor and organising industrial action against another person. Coercion and misrepresentation in relation to workplace rights and industrial activities are also prohibited.

### **Adverse action taken ‘because’ of a proscribed reason**

Many the general protections provisions aim to protect employees from adverse action taken **because** of a particular proscribed reason. For example, s.340 says:

“340 Protection

(1) A person must not take adverse action against another person:

(a) because the other person:

(i) has a workplace right; or

(ii) has, or has not, exercised a workplace right; or

(iii) proposes or proposes not to, or has at any time proposed or proposed not to, exercise a workplace right; or

(b) to prevent the exercise of a workplace right by the other person. [Emphasis added]

Thus a general protections dispute occurs when it is alleged that adverse action is taken—or when a threat to take adverse action occurs—because a person has one of these rights, exercises or does not exercise such a right, or proposes or does not propose to exercise such a right.

Other general protections provisions which use ‘because’ are:

- s.346 (regarding industrial activities)
- s.351 (regarding discrimination)
- s.352 (regarding temporary absence in relation to illness or injury), and
- s.354 (regarding coverage by particular instruments, including provisions of the National Employment Standards).”

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### National Employment Standards

The National Employment Standards (NES) are 10 minimum employment entitlements that have to be provided to all employees.

The national minimum wage and the NES make up the minimum entitlements for employees in Australia. An award, employment contract, enterprise agreement or other registered agreement can't provide for conditions that are less than the national minimum wage or the NES. They can't exclude the NES.

The 10 minimum entitlements of the NES are:

- Maximum weekly hours (<http://www.fairwork.gov.au/Employee-entitlements/hours-of-work-breaks-and-rosters/Hours-ofwork/default>)
- Requests for flexible working arrangements (<http://www.fairwork.gov.au/Employee-entitlements/Flexibility-in-theworkplace/flexible-working-arrangements>)
- Parental leave and related entitlements <http://www.fairwork.gov.au/Leave/maternity-and-parental-leave/default>)
- Annual leave (<http://www.fairwork.gov.au/leave/annual-leave/default>)
- Personal carers leave (<http://www.fairwork.gov.au/leave/sick-and-carers-leave/default>) and compassionate leave
- (<http://www.fairwork.gov.au/leave/compassionate-leave>)
- Community service leave (<http://www.fairwork.gov.au/leave/community-service-leave/default>)
- Long service leave (<http://www.fairwork.gov.au/leave/long-service-leave/default>)
- • Public holidays (<http://www.fairwork.gov.au/Leave/Public-holidays/default>)
- Notice of termination (<http://www.fairwork.gov.au/Ending-employment/notice-and-final-pay/default>) and redundancy pay
- (<http://www.fairwork.gov.au/ending-employment/redundancy/default>)
- Fair Work Information Statement (<http://www.fairwork.gov.au/Employee-entitlements/National-Employment-Standards/fair-work-information-statement>)

### Who's covered by the NES

All employees in the national workplace relations system are covered by the NES regardless of the award, registered agreement or employment contract that applies.

Casual employees only get NES entitlements relating to:

- Unpaid carer's leave.

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- Unpaid compassionate leave.
- Community service leave.
- The Fair Work Information Statement.
- In Victoria, long serving casuals are eligible for long service leave.
- Where there is an expectation of ongoing work for a casual and the casual has been employed regularly and systematically for at least 12 months, they have extra entitlements from the NES. These are:
  - The right to request for flexible working arrangements.
  - Access to parental leave.

### Individual Flexibility Agreements

#### Introduction

Modern awards and enterprise agreements set out the minimum terms and conditions of employment for groups of employees performing similar tasks or who are employed by the same employer. These instruments are collective in nature and apply to many employees.

Therefore, they may not take into account the specific circumstances of individual employees and the employer.

However, every modern award and enterprise agreement must include a 'flexibility term'. If an enterprise agreement does not include a flexibility term it will be taken to include the model flexibility term set out in the *Fair Work Regulations 2009*. A link can be found in the 'For more information' section at the end of this guide.

A flexibility term allows an employer and an individual employee to agree on an arrangement which varies the effect of the modern award or enterprise agreement in order to meet the genuine needs of the employer and that individual employee. The FW Act ensures these arrangements do not undermine minimum employee entitlements by requiring the employer to ensure the employee covered by the IFA is better off overall on the IFA compared to the modern award or enterprise agreement the IFA varies.

#### What is the effect of an IFA?

An IFA can be used to vary certain terms of a modern award or enterprise agreement as it applies to that employee covered by the IFA. For example, an enterprise agreement might provide for ordinary working hours between 9.00 am and 5.00 pm. If an IFA between an employer and an individual employee provides for ordinary working hours of between 7.00 am and 3.00 pm, the enterprise agreement will apply to that employee as if the enterprise agreement provided for ordinary working hours of between 7.00 am and 3.00 pm. The unvaried enterprise agreement will continue to apply to other employees unaffected by the IFA so that they have ordinary working hours between 9.00 am and 5.00 pm.

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An IFA has effect as if it was a term of a modern award or enterprise agreement and can be enforced as such.

### How are IFAs made?

An employee or employer can initiate a request for an IFA.

It is the employer's responsibility to ensure that the employee is better off overall than if there was no IFA. The employer's 'better off overall' assessment will usually involve comparing the employee's financial benefits under the IFA with the financial benefits under the applicable award or enterprise agreement. The employee's personal circumstances and any non-financial benefits which are significant to the employee can also be considered.

An IFA must be in writing and signed by the employer and employee. If the employee is under 18 years of age, it must also be signed by the employee's parent or guardian.

Once an IFA has been made, it is the employer's responsibility to ensure that a copy of the IFA is given to the employee. The employer should also retain a copy.

### Modern award flexibility terms

Flexibility terms within modern awards will only allow IFAs to vary:

- Arrangements for when work is performed, such as working hours;
- Overtime rates;
- Penalty rates;
- Allowances, and
- Leave loading.

This means modern award entitlements relating to any of these five award matters may be varied by agreement between an employer and an individual employee provided that, overall, the employee is 'better off' under the IFA at the time that the IFA is made. An IFA can also only be made after the relevant employee has commenced employment and is entitled to the minimum award conditions prescribed by the relevant modern award. This means an employer cannot ask a prospective employee to agree to an IFA as a condition of employment.

IFAs varying enterprise agreements may include terms which would be 'permitted matters' if they were included in the enterprise agreement. These include:

- Matters pertaining to the relationship between the employer and employees;
- Matters pertaining to the relationship between the employer and a union covered by the agreement;
- Deductions from wages for any purpose authorised by employees (such as terms allowing for salary sacrifice, extra superannuation payments or union fees); and
- The operation of the agreement.

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### IFAs cannot include unlawful terms.

These are:

- Discriminatory terms (terms which discriminate against an employee on certain grounds).
- Objectionable terms (terms which contravene the 'general protections' provisions of the FW Act or require the payment of a bargaining services fee).
- Terms that give an employee an entitlement or remedy in relation to unfair dismissal before they have completed the minimum employment period.
- Terms that exclude or modify the application of unfair dismissal provisions of the FW Act in a way that is detrimental to a person.
- Certain terms that provide right of entry entitlements.
- Certain terms that provide for the exercise of state or territory occupational health and safety (OH&S) and work health and safety (WHS) rights, and terms inconsistent with the industrial action provisions under the FW Act.

### No FWC approval needed

IFA's do not need to be approved by the Fair Work Commission. It is the employer's responsibility to ensure that the IFA is made correctly and meets all of the requirements of the FW Act.

### How is an IFA terminated?

The flexibility term and the IFA should include information about how the IFA may be terminated. Generally, an IFA may be terminated by agreement or by either party giving the required written notice. Modern awards require 13 weeks' notice, but this may be different in an enterprise agreement (but no more than 28 days).

### The process explained

Employer or employee decides they would like an IFA. They approach the other party with their request.



The employer agreeing to the IFA should ensure it can validly be made. Employees on awards have five matters they can vary. Employees on enterprise agreements can make IFAs on matters specified in the enterprise agreement's flexibility term.



The employer and employee discuss the IFA.



The employer makes sure:

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- the employee is better off overall under the IFA
- the IFA only deals with matters permitted by the flexibility term in the enterprise agreement or modern award and, in the case of an enterprise agreement, does not contain any unlawful terms.



The employer and employee sign the IFA. If the employee is under 18 their parent or guardian must also sign.



Employer keeps a copy and gives a copy to the employee.



The IFA varies the relevant enterprise agreement or modern award with respect to the employee until either or both parties decide they no longer want the agreement in place.



An IFA made in accordance with a modern award or an enterprise agreement will end when a new enterprise agreement begins operating.

### Checklist for best practice on using an IFA

Employers who are working at best practice will:

- Check the range of permitted matters that an IFA can vary under the enabling flexibility term in the relevant enterprise agreement or modern award.
- Identify opportunities in the organisation where an individual flexibility arrangement could benefit the employee and employer.
- Have a process for consultation that allows employees to identify appropriate flexible work practices in their interests.
- Support employees to balance their work and personal lives. IFAs may be useful in achieving this.
- Ensure that IFAs are used to reflect the genuine needs of the particular situation of the employee and employer.
- Ensure the IFA does not disadvantage an employee and leaves the employee covered by it better off overall.
- Ensure the IFA for an enterprise agreement does not include any unlawful terms.

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- Ensure employees are not unduly influenced or pressured to agree to an IFA. Employees should be given reasonable time to consider a proposed IFA and opportunity to raise issues with their employer and vice-versa.
- Allow employees to be represented if they wish, when negotiating an IFA with their employer.
- Be open to approaches from employees about making IFAs.
- Give genuine consideration to an employee's requests for an IFA.

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### SOCIAL MEDIA POLICY

[TAFE] recognises that the Internet provides a range of unique opportunities to participate in interactive discussions and to share information using a wide variety of social media, including the following:

- Social networking sites e.g. Facebook, MySpace, LinkedIn, Yammer.
- Video and photo sharing websites e.g. YouTube, Flickr.
- Micro-blogging sites e.g. Twitter.
- Weblogs, including corporate blogs, personal blogs or blogs hosted by traditional media publications.
- Forums and online discussion boards e.g. Whirlpool, Google Groups.
- Online encyclopaedias e.g. Wikipedia.
- Any other web site that allows individual users or companies to post comments to the web.

Social media differs from most other forms of traditional media with the ability to engage in true two-way communication and for virtually anyone to participate in and contribute to content. [TAFE] recognises that employees will use or interact with social media on a personal level, both at work and home.

Therefore, this policy ensures employees who use social media, in a personal capacity or as part of their job, have information to support responsible use where [TAFE]'s business is involved, including its services, employees and customers.

All employees are responsible for the success and implementation of this policy and are therefore expected to take the time to read and understand it.

#### Scope

This policy covers the use of social media for all employees, as part of their employment or in a personal capacity and applies whenever an employee's use of social media relates to or impacts on their capacity to perform their role as a [TAFE] employee.

This Policy outlines the following:

- The standards to be observed by all employees in relation to the use of social media;
- The circumstances in which [TAFE] will monitor use of social media; and
- The action that [TAFE] will take in respect of any breaches of those standards.

Employees are bound by the [TAFE] Code of Conduct and other relevant policies. The values, personal and professional behaviour required under these policies applies to interactions or engagements within the social media space. All [TAFE] policies can be found on the [TAFE] intranet.

The virtual world is constantly changing; therefore, this policy may be amended at any time at the discretion of [TAFE]. The Policy does not form part of any contract of employment.

#### Responsible use of social media

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Employees are expected to adhere to common-sense rules and guidelines to ensure appropriate, responsible and safe use of social media, whether in the workplace or outside of the workplace and/or outside working hours.

[TAFE] recognises that employees may use social media for personal activities at the office or by means of [TAFE] computers, networks and other IT resources and communication systems. Occasional use of social media is accepted at [TAFE] so long as it does not involve unprofessional or inappropriate content and does not interfere with employment responsibilities and productivity, which must always take priority.

### Protecting [TAFE]'s reputation

Employees must not under any circumstances post disparaging or defamatory statements about:

- [TAFE] as an organisation;
- [TAFE] clients, customers, suppliers or vendors; and/or
- Any other business related to [TAFE] or persons or entities that may have a connection with our business.

It is expected that employees will always refrain from entering into inflammatory or inappropriate debate which could bring the reputation of [TAFE] into disrepute.

Should an employee be uncertain or concerned about the appropriateness of any statement or posting they should refrain from making the communication or seek approval from human resources.

### Reporting misuse of social media

If an employee views content within social media networking sites that disparages or reflects poorly on [TAFE] or associated party, they must immediately contact human resources and or their manager.

### Business use of social media

Social media, when used effectively can be an effective tool to promote the business and service offerings of [TAFE]. This is achieved through enhancing [TAFE]'s reputation and bringing in more business. Social media is an important part of how [TAFE] communicates with clients, customers, suppliers and vendors to attract and build online communities of people interested in and wishing to interact with its practices, products and services. Therefore [TAFE] encourages employees to make reasonable and appropriate use of social media websites as part of their work.

Marketing: [TAFE] utilises social media from a marketing perspective, with marketing representatives contributing to [TAFE] social media activities, for example by reviewing information for blogs and managing the official [TAFE] Twitter account.

Such employees must be aware always that, while contributing to TDs social media activities, they are representing the organisation. Employees who use social media as part of their job must:

- ensure communication has a purpose and a benefit for [TAFE];

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- obtain Executive approval prior to embarking on public campaigns via social media; and
- Peer-review content before prior to its publication.

Recruitment: In addition to marketing, [TAFE] utilises social media to source and attract candidates during the recruitment process. Websites including [TAFE]’s web-site assist to attract talent and direct candidates to apply for positions. In doing so, [TAFE] act in accordance with the data protection and equal opportunities obligations.

### Personal use of social media

Employees have the right to make public comment and enter into public debate on political and social issues. Employees are responsible for their personal communications within social media. Employees must remember that information which is published might be available to be read by the masses (including [TAFE] itself, future employers and social acquaintances) for a long time, if not permanently.

Employees must not under any circumstances post comments about the following:

- Sensitive business-related or confidential topics, such as TDs performance or financial information;
- Information that relates to trade secrets and/or other confidential information; and
- Intellectual property.

Employees must not imply that they are authorised to speak on behalf of [TAFE]. Employees are not authorised to use the [TAFE] logo, brand names, slogans or other trademarks, or post any confidential or proprietary information without the prior written permission of [TAFE].

### “Checking in” on social media

To avoid breaching standing agreements including privacy agreements that [TAFE] holds with clients, customers, suppliers, etc, employees must not broadcast anything that would identify a [TAFE] customer.

### Use of personal technology to access social media

[TAFE] understands that employees may wish to use their own computers or devices, such as laptops and hand- held devices, to access social media sites while they are at work. Whilst this may be acceptable, employees must limit their use of social media on their own equipment and be conscious of not letting social networking interfere with employment obligations.

### Respecting others online

Any online social media engagement should not compromise or interfere with the working relationships that have been established through [TAFE]. Therefore, employees must not post anything related to other employees, clients, customers, suppliers or vendors without their written permission.

Employees must be mindful that communications made within social media can be found as offensive or inappropriate to others, therefore employees must avoid making discriminatory, insulting and/or obscene comments.

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### Compliance with related policies

Social media should never be used in a way that breaches any policy of [TAFE].

### Breach of the Policy

Where an employee is found to have breached this policy or any related [TAFE] policies in an online forum, the employee will be subject to disciplinary action, up to and including dismissal, with immediate effect for serious misconduct.

This extends to contractors and other non-employees who are ambassadors of [TAFE]. Breach of this or any of the related policies, where applicable, may result in termination of their engagement without notice.

Disciplinary action may be taken regardless of whether the breach is committed during working hours, and regardless of whether [TAFE]'s IT equipment and facilities are used for the purpose of committing the breach. Any employee suspected of committing a breach of this policy will be required to co-operate with [TAFE] investigation into the allegations. Employees may also be required immediately to remove Internet postings that are deemed by [TAFE] to constitute a breach of this Policy. Failure to comply with any such requests may in itself result in disciplinary action being taken.

Misuse of social media by creating, viewing, accessing, transmitting or downloading any of the following material will amount to gross misconduct (this list is not exhaustive) which may result in immediate termination of your employment/engagement with [TAFE]:

- Pornographic material;
- Chain letters or other spam;
- Offensive, obscene, or criminal material or material which is liable to cause embarrassment to [TAFE] or otherwise bring [TAFE] into disrepute;
- False and libellous/defamatory statements about any person or organisation;
- Material which is abusive, racist, sectarian, sexist, defamatory or unlawful, offensive or otherwise discriminatory on any protected ground;
- Confidential information about [TAFE] (including customers, suppliers, etc) or any employees;
- Any other statement which is likely to create any liability (whether criminal or civil, and whether for the employee or [TAFE]); and/or

### Bullying & harassment.

Serious breaches of this policy, for example incidents of bullying or harassment of colleagues or social media activity causing serious damage to [TAFE], may constitute gross misconduct and lead to summary dismissal.

### Monitoring

The contents of [TAFE]'s IT equipment and communication systems are, and remain at all times, the property of [TAFE]. Therefore, employees should have no expectation of privacy in any message,

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data, document, social media post, blog, discussion or any other information sent, received or stored on [TAFE] IT systems.

[TAFE] reserves the right to monitor, intercept and review, without notice, employee activities using [TAFE] IT equipment and communications systems owned by [TAFE]. This may include but is not limited to social media postings and activities, to ensure that rules are being complied with and for legitimate business purposes.

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## PROTECTED DISCLOSURE POLICY

(Updated by VTA 29/8/2019 – reference “the Gordon Protected Disclosure Policy”)

### Purpose

This policy has been developed to facilitate a protected disclosure consistent with the Protected Disclosure Act 2012 (the Act) and changes in effect from 1 December 2016 for mandatory notifications in accordance with the *Independent Broad-Based Anti-Corruption Commission Act 2011* (the IBAC Act). The policy is to be implemented in a manner which complements the normal (established) communication channels in use within [Institute name]. Staff are encouraged to continue to raise appropriate matters at any time with Institute management in line with existing policies and procedures and where necessary to use this procedure for a protected disclosure.

### Scope

This policy covers the disclosure of corrupt or improper conduct and the protection from detrimental action associated with a protected disclosure by any persons associated with or employed by [Institute name].

### Definitions

The following terms and abbreviations are specific to this procedure:

**Detrimental Action:** It is an offence for a person to take detrimental action against a person who has made a protected disclosure. The Act defines detrimental action as including:

- Action causing injury, loss or damage
- Intimidation or harassment, and
- Discrimination, disadvantage or adverse treatment in relation to a person’s employment, career, profession, trade or business, including the taking of disciplinary action.

**Improper Conduct:** Improper conduct is defined as:

- Corrupt Conduct (as defined in the IBAC Act 2011), or
- Specified conduct that is not Corrupt Conduct.

**Specified conduct includes:**

- conduct of any person that adversely affects the honest performance of a public officer’s or public body’s functions
- conduct of a public officer or public body that constitutes or involves the dishonest performance of a public officer’s or public body’s functions
- conduct of a public officer, former public officer or a public body that amounts to knowingly or recklessly breaching public trust
- conduct by a public officer or a public body that amounts to the misuse of information or material acquired in the course of the performance of their official functions, or
- a conspiracy or attempt to engage in any of the above conduct
- conduct of a public officer or public body that involves a substantial:
  - Mismanagement of public resources, or
  - Risk to public health or safety, or

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- Risk to the environment.

These elements of improper conduct are qualified by the requirement that they would be a criminal offence or grounds for dismissal if proven. This indicates that the conduct will only fall within the meaning of the Act where it is dishonesty of a serious nature.

The above list is not exhaustive and, when in doubt as to whether the conduct shows or tends to show that there was improper conduct, (IBAC) should be contacted for guidance.

**Substantial mismanagement of public resources:** The use of the word 'substantial' has the effect of confining the definition to a situation in which the mismanagement is of a significant or considerable degree.

Mismanagement should not be confused with 'misuse'. Mismanagement is to manage badly or wrongly, whilst misuse is wrong or improper use. For example, to use a government car for personal gain is a misuse rather than mismanagement.

**Substantial risk to public health, safety or the environment:** The use of 'substantial' has the effect of confining the definition to conduct that puts public health, safety or the environment at considerable or great risk.

The risk is limited to public health or safety. This means the risk is not just to an individual but relates to conduct which affects, or has the potential to affect, a large class or group of the wider community.

**Protected disclosure:** To be a protected disclosure, a disclosure must satisfy the following criteria:

- A person rather than a corporation or organisation is making the disclosure.
- The disclosure relates to the conduct of a public body ([Institute name]) or public officer (employee) acting in their official capacity.
- The alleged conduct is either improper conduct or detrimental action taken against a person in reprisal for making a protected disclosure.
- The person making the disclosure has reasonable grounds for believing the alleged conduct has occurred.

**If all of the criteria are met, then:**

The disclosure is a protected disclosure and is referred to the Protected Disclosure Coordinator for assessment to determine whether the disclosure is a public interest disclosure.

**If the criteria are not met, then:**

The disclosure is not assessed to be a protected disclosure and the matter does not need to be dealt with under the Act. In this case the Protected Disclosure Coordinator will decide how the matter is to be dealt with thereafter.

### Overview / principles

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### 4.1 Objectives of the act

The main objective is to encourage and facilitate the making of disclosures of improper conduct by public officers and public bodies and to establish a system for matters to be investigated. The Act also provides protection from detrimental action to any person affected by a protected disclosure whether it is a person who makes a disclosure, a witness, or a person who is the subject of an investigation.

From 1 December 2016, all relevant public officers (i.e. CEOs) of a public body must notify IBAC of any matter they suspect on reasonable grounds involves corrupt conduct.

### 4.2 The reporting system

[Institute name] is committed to ensuring it has a robust system for the receipt, assessment and investigation of protected disclosures. This will include:

- Ensuring senior staff are involved and retain oversight
- Ensuring confidentiality of the information and the identity of the persons making protected disclosures are maintained throughout the process
- Keeping the roles of assessment and investigation of a disclosure distinct from welfare management of the person making a disclosure
- Identifying clear contact points for reporting protected disclosures, including all relevant disclosures made in person or by mail, phone calls and emails
- Enabling the CEO to immediately notify IBAC of any matter suspected on reasonable grounds that involves corrupt conduct
- Ensuring a disclosure about the Chief Executive Officer is immediately notified to IBAC by the Chief Operating Officer and / or Board Chair in accordance with the IBAC Mandatory Notifications Policy SHRD PO 41.

A clear internal reporting system will benefit [Institute name] by:

- Encouraging staff to raise matters of concern internally
- Providing a reporting channel for disclosures that may otherwise never be reported
- Ensuring disclosures by such persons are properly and appropriately assessed and acted upon
- Ensuring the protection of the Act is fully available to all internal and external persons making protected disclosures

### 4.3 Confidentiality

The Act requires any person who receives information due to the handling or investigation of an assessable disclosure, not to disclose that information except in certain limited circumstances. These include:

- Where exercising the functions of the public body under the Act
- When making a report or recommendation under the Act
- When publishing statistics in the annual report of a public body
- In criminal proceedings for certain offences in the Act.

However, the Act prohibits:

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- The inclusion of particulars in any report or recommendation that is likely to lead to the identification of the person making a protected disclosure
- The disclosure of particulars in an annual report and other reports to Parliament that might lead to the identification of a person against whom a protected disclosure is made.

### 4.4 Collating and publishing statistics

[Institute name] will report on the number and types of disclosures in its annual report. The information will be collated by Strategic HR & Development.

### 4.5 Receiving and assessing disclosures

#### 4.5.1 How to make a disclosure

A person may make a disclosure:

- Orally
- In writing
- Electronically
- Anonymously.

This means that disclosures may be received from anonymous sources, including unverified email addresses, phone calls, by facsimile, in a conversation or meeting. If the disclosure is made orally, contemporaneous notes should be made of the disclosure.

If the disclosure comes from an email address from which the identity of the person making the disclosure cannot be determined, the disclosure should be treated as an anonymous disclosure.

Any person can submit an allegation or complaint. The Act does not require the individual to be an employee of [Institute name], or a public sector employee. The complaint must be made by an individual and not by a company, organisation or group of people.

Disclosures of improper conduct or detrimental action by [Institute name] or any of its employees, members or officers may be made to the following officers:

#### Protected Disclosure Officer:

Employee Relations Manager

Human Resources

Phone:

#### The Protected Disclosure Coordinator:

Director Human Resources

Phone:

#### 4.5.2 Receiving a disclosure

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[Institute name] can only receive disclosures that relate to the conduct of its employees. If a disclosure is received about an employee, officer or member of another public body, the disclosure has not been made in accordance with Part 2 of the Act. In this instance, the person making the disclosure should be advised of the correct person or body to whom the disclosure must be made. In such circumstances they should generally be advised to make their disclosure to IBAC.

A disclosure may be made to any member officer or employee of [Institute name]. It is our responsibility to ensure that any allegation made that may fall under the Act is referred to the protected disclosure coordinator to assess the information.

### 4.5.3 Assessing a disclosure

Where [Institute name] receives information relating to the conduct of an employee, member or officer, it must first assess whether the disclosure meets the criteria to be a protected disclosure and then determine if the information is deemed to be a public interest disclosure. [Institute name] must reach its conclusion about the disclosure within 45 days of receiving it.

### 4.6 Preventing detrimental actions

[Institute name] is committed to the protection of persons making protected disclosures against detrimental action (as defined in section 7.1). [Institute name] is responsible for ensuring persons making a protected disclosure are protected from direct and indirect detrimental action, and that the workplace culture is supportive of protected disclosures being made.

[Institute name] will take all reasonable steps to protect the identity of anyone making a protected disclosure and for ensuring reprisals are not made. Confidentiality will be assured as follows:

- The Protected Disclosure Coordinator, in consultation with the individual making the disclosure, select and appoint a Welfare Manager to support the individual
- [Institute name] will ensure all files, whether paper or electronic, are kept in a secure location and can only be accessed by the Protected Disclosure Coordinator, Protected Disclosure Officer, the investigator or Welfare Manager (in relation to welfare matters)
- All printed material will be kept in files that are clearly marked as a Protection Disclosure Act matter, and warn of the criminal penalties that apply to any unauthorised divulging of information concerning a protected disclosure
- All electronic files shall be produced and stored in a secured file and be given password protection. Backup files shall be kept in line with [Institute name] Records Management policy.
- All materials relevant to an investigation, such as tapes from interviews, shall also be stored securely with the protected disclosure files
- [Institute name] will not email documents relevant to a protected disclosure matter and shall ensure all phone calls and meetings are conducted in private in neutral locations.

Anyone making a disclosure will be advised that it is in their own interests to keep disclosures confidential by only discussing related matters with authorised persons within [Institute name] or officers of IBAC's office or other persons as authorised by law.

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If a person making a protected disclosure reports an incident of harassment, discrimination or adverse treatment that would amount to detrimental action apparently taken in reprisal for the making of the disclosure, the welfare manager or protected disclosure coordinator must:

- Record details of the incident
- Advise the person making a protected disclosure of their rights under the Act.

Where the detrimental action is of a serious nature likely to amount to a criminal offence, [Institute name] will give consideration to reporting the matter to the police or IBAC.

The taking of detrimental action in reprisal for making a disclosure can be an offence against the Act, as well as grounds for making a further disclosure. Where such detrimental action is reported, the allegation must be assessed as a new disclosure under the Act.

[Institute name] will not conduct enquiries or gather information concerning an allegation of detrimental action that may compromise the integrity of evidence used in the investigation of a criminal offence.

### 4.7 Management of the person against whom the disclosure is made

The principles of natural justice will be adhered to in any investigation of a protected disclosure. These principles concern procedural fairness and ensure a fair decision is reached by an objective decision maker. [Institute name] shall have regard to the following issues in ensuring procedural fairness:

- As certain actions can prejudice a future investigation by IBAC, once reasonable grounds for suspicion of corrupt conduct have been formed further investigation is to cease immediately, until IBAC has assessed the matter and informed of its decision. IBAC's decision may be to dismiss, to refer or to investigate further.
- The person who is the subject of the disclosure is entitled to know the allegations made against him or her and must be given the right to respond. (This does not mean the person must be advised of the allegation as soon as the disclosure is received or the investigation has commenced)
- If the investigator is contemplating making a report adverse to the interests of any person, that person should be given the opportunity to put forward further material that may influence the outcome of the report and that person's defence should be fairly set out in the report
- All relevant parties to a matter should be heard and all submissions should be considered
- A decision should not be made until all reasonable inquiries have been made
- The investigator or any decision maker should not have a personal or direct interest in the matter being investigated
- All proceedings must be carried out fairly and without bias. Care should be taken to exclude perceived bias from the process; and
- The investigator must be impartial in assessing the credibility of the disclosure and any witnesses. Where appropriate, conclusions as to credibility should be included in the investigation report.

### 4.8 Criminal offences

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The Act establishes a number of offences regarding a disclosure once it has been determined to be a protected disclosure:

<b>Criminal offences</b>	<b>Detrimental action</b>  It is an offence for a person to take or threaten action in reprisal when: <ul style="list-style-type: none"> <li>• a protected disclosure has been made</li> <li>• a person believes a protected disclosure has been made</li> <li>• a person believes that another person intends to make a protected disclosure.</li> </ul>
	<b>Breach of confidentiality</b>  It is an offence for a person to divulge information obtained as a result of the handling or investigation of a protected disclosure without legislative authority.
	<b>Provision of false information</b>  It is an offence for a person to knowingly provide false information under the Act with the intention that it be acted on as a protected disclosure.
<b>Civil action</b>	A person who takes detrimental action against a person in reprisal for a protected disclosure may be found liable in damages to that person. The public body may also be found to be vicariously liable.

### 4.9 Freedom of information

Section 78 of the Act excludes the application of the *Freedom of Information Act 1982* to any document that relates to a disclosure made under the Act.

#### Helpful contacts:

##### IBAC

Phone: 1300 735 135

Email: [info@ibac.vic.gov.au](mailto:info@ibac.vic.gov.au)

Website: [www.ibac.vic.gov.au](http://www.ibac.vic.gov.au)

Post: IBAC, GPO Box 24234, Melbourne, Vic 3000

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### Responsibilities

Position	Responsibility
Director Human Resources	Accountable for the implementation, maintenance and communication of this policy.  [Institute name]'s nominated Protected Disclosure Co-ordinator and is therefore responsible for ensuring [Institute name]'s reporting, investigation and management of protected disclosures as well as for implementing the <i>IBAC Mandatory Notifications Policy SHRD PO 41</i> .
The Employee Relations Manager	[Institute name]'s nominated Protected Disclosure Officer and is therefore responsible for general advice about the operation of the Act for any person wishing to make a disclosure about improper conduct or detrimental action.

### 5.1 Employees

- Employees are encouraged to report known or suspected incidences of improper conduct or detrimental action in accordance with these procedures
- All employees of [Institute name] have an important role to play in supporting those who have made a legitimate disclosure. Employees must refrain from any activity that is, or could be perceived to be, victimisation or harassment of a person who makes a disclosure. Furthermore, employees should protect and maintain the confidentiality of a person they know or suspect to have made a disclosure.

### 5.2 Protected Disclosure Coordinator

The Protected Disclosure Coordinator has a central role in the internal reporting system and will:

- Impartially assess each disclosure to determine whether it appears to be a protected disclosure
- Conduct a confidential preliminary investigation to assist the principle officer as delegated by the Chief Operating Officer to make a mandatory notification to IBAC, to establish what conduct has occurred, but to cease investigation immediately once reasonable grounds for suspicion have been formed. No further action shall be taken until IBAC has assessed the matter and informed of its decision
- Coordinate the reporting system used by [Institute name]
- Be a contact point for general advice about the operation of the Act and for integrity agencies such as the IBAC
- Liaise with IBAC in regard to the relevant legislation
- Receive all disclosures forwarded from the Protected Disclosure Officer

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- Receive all phone calls, emails and letters from members of the public or employees seeking to make a disclosure
- Impartially assess each disclosure to determine whether it is a public interest disclosure
- Refer all public interest disclosures to IBAC
- Be responsible for carrying out, or appointing an investigator to carry out an investigation referred by IBAC
- Be responsible for overseeing and coordinating an investigation where an investigator has been appointed
- If it is deemed necessary, appoint a Welfare Manager to support the individual making the protected disclosure and to protect him or her from any reprisals
- Advise the individual making the protected disclosure of the progress of an investigation into the disclosed matter
- Establish and manage a confidential filing system
- Collate and publish statistics on disclosures made
- Take all necessary steps to ensure the identity of the individual making the protected disclosure and the identity of the person who is the subject of the disclosure are kept confidential
- Have a good working knowledge of existing Institute policies and procedures relating to fraud and corruption and performance management (as referenced).
- Liaise with the Chief Executive Officer / Delegate as appropriate.

### 5.3 Protected Disclosure Officer

The Protected Disclosure Officer will:

- Be a contact point for general advice about the operation of the Act for any person wishing to make a disclosure about improper conduct or detrimental action
- Make arrangements for a disclosure to be made privately and discreetly and, if necessary, away from the workplace
- Receive any disclosure made orally or in writing (from internal and external sources)
- Commit to writing any disclosure made orally
- Impartially assess the allegation and determine whether it is a disclosure made in accordance with a protected disclosure
- Take all necessary steps to ensure the identity of those involved are kept confidential; and
- Forward all disclosures and supporting evidence to the Protected Disclosure Coordinator
- Have a good working knowledge of existing Institute policies and procedures relating to fraud and corruption and performance management as well as the IBAC Mandatory Notifications policy (as referenced).

### 5.4 Welfare Manager

Where a protected disclosure proceeds to investigation [Institute name] is committed to preserving the welfare of those involved. The protected disclosure coordinator will appoint a Welfare Manager to monitor the needs of the person making a protected disclosure and to provide advice and support.

The role of the Welfare Manager is to:

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- Examine the immediate welfare and protection needs of a person making a protected disclosure who has made a disclosure and seek to foster a supportive work environment
- Advise the person making a protected disclosure of the legislative and administrative protections available
- Listen and respond to any concerns of harassment, intimidation or victimisation in reprisal for making a disclosure
- Keep a contemporaneous record of all aspects of the case management of the person making a protected disclosure, including all contact and follow-up action
- Endeavour to ensure that the expectations of the person making a protected disclosure are realistic.

The Welfare Manager must not divulge any details relating to the disclosed matter to any person other than the protected disclosure coordinator, the investigator or the Chief Executive Officer / Delegate. All meetings between the Welfare Manager and the person making a disclosure should be conducted discreetly to protect confidentiality.

### 5.5 Investigator

The investigator is responsible for carrying out an internal investigation into a disclosure referred to [Institute name]. An investigator may be a person from within [Institute name] or a consultant engaged for that purpose by the Protected Disclosure Coordinator.

#### 1. Key aligned internal documents

#### 2. Key aligned external documents

[Protected Disclosure Act 2012](#)

[Independent Broad-Based Anti-Corruption Commission Act 2011](#)

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### REPORTABLE CONDUCT SCHEME

*(Updated by VTA 29/8/2019 – reference “the Gordon Protected Disclosure Policy”)*

Resources have been developed by the Victorian Government to assist TAFEs in implementing policies and procedures to ensure that they comply with Child Safe Standards. It is recommended to ensure that you comply with all regulations and apply best practice that policies and procedures are modelled by the below links:

<https://www.education.vic.gov.au/about/programs/health/protect/Pages/vetguidance.aspx>

[https://www.education.vic.gov.au/Documents/about/programs/health/protect/GuidanceForTAFEsRTOs\\_PDF.pdf](https://www.education.vic.gov.au/Documents/about/programs/health/protect/GuidanceForTAFEsRTOs_PDF.pdf)

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## **OCCUPATIONAL HEALTH & SAFETY**

### **Legal**

In Victoria, workplace health and safety is governed by a system of laws, regulations and compliance codes which set out the responsibilities of employers and workers to ensure that safety is maintained at work.

### **The Act**

The Occupational Health and Safety Act 2004 is the cornerstone of legislative and administrative measures to improve occupational health and safety in Victoria.

The Act sets out the key principles, duties and rights in relation to occupational health and safety. The general nature of the duties imposed by the Act means that they cover a very wide variety of circumstances, do not readily date and provide considerable flexibility for a duty holder to determine what needs to be done to comply.

### **The Regulations**

The Occupational Health and Safety Regulations 2007 are made under the Act. They specify the ways duties imposed by the Act must be performed or prescribe procedural or administrative matters to support the Act, such as requiring licenses for specific activities, keeping records, or notifying certain matters.

The new Occupational Health and Safety Regulations 2017 and Equipment (Public Safety) Regulations 2017 commenced on 18 June 2017.

### **Guidance**

Effective OHS regulation requires that WorkSafe provides clear, accessible advice and guidance about what constitutes compliance with the Act and Regulations. This can be achieved through Compliance Codes, WorkSafe Positions and non-statutory guidance ('the OHS compliance framework'). For a detailed explanation of the OHS compliance framework, see the Victorian Occupational Health and Safety Compliance Framework Handbook.

### **Compliance codes**

Compliance Codes provide practical guidance to those who have duties or obligations under the OHS Act. They aim to provide easy to understand information on how to comply.

This information, if applied appropriately, will mean those who follow it are deemed to have complied with their obligations under the OHS Act.

With the new OHS Regulations 2017 having commenced in June 2017, the compliance codes that align with the regulations are now under review. In consultation with stakeholders, WorkSafe has updated the codes, and are making them available for public comment.

### **Policy**

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Not every term in the legislation is defined or explained in detail. Also, sometimes new circumstances arise (like increases in non-standard forms of employment, such as casual, labour hire and contract work, or completely new industries with new technologies which produce new hazards and risks) which could potentially impact on the reach of the law, or its effective administration by WorkSafe. Therefore, from time to time WorkSafe must make decisions about how it will interpret something that is referred to in legislation, or act on a particular issue, to ensure clarity. In these circumstances, WorkSafe will develop a policy. A policy is a statement of what WorkSafe understands something to mean, or what WorkSafe will do in certain circumstances.

Source: Victorian WorkCover Authority

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### OH&S Policy (template)

#### Purpose

The purpose of policy is for [TAFE] to aspire to provide a workplace that is:

- Free of injury/illness to its workforce, which includes volunteers, contractors, consultants, clients and visitors;
- Comply with all OH&S related legislation; and
- Provides a Health & Wellbeing program for its team members.

This policy is the cornerstone of [TAFE]'s OH&S system that is put in place for the benefit of [TAFE]'s team members (which include students and volunteers), as well as its on-site contractors, consultants and visitors and compliance with the Occupational health & Safety Act 2004 (Victoria) and associated codes and regulations.

This policy applies to [TAFE]'s team members (which include students and volunteers), as well as its on-site contractors, consultants and visitors.

#### Policy Statement

Include a short statement on [TAFE] services.

[TAFE] recognises that it has a primary responsibility for the health and safety of its team members (which include students and volunteers), as well as its on-site contractors, consultants and visitors.

[TAFE] demonstrates its duty of care by complying with health and safety legislation, regulations, compliance codes, and safe operating procedures.

As such, [TAFE] aims to:

- Provide and maintain a working environment:
  - That is safe and is in compliance with prevailing OH&S legislation; and
  - Where the health and wellbeing of employees is highly valued.
- Prevent work related injury and illness at all [TAFE] workplaces.
- Reduce or eliminate hazards by the provision and maintenance of workplaces, equipment and systems of work.
- Provide such information, instruction and training for the supervision of our workforce as is necessary to enable them to perform their work in a safe manner.
- Support consultation and participation with health and safety representatives and other members of its workforce on occupational health, safety in the workplace.
- Ensure that team members take reasonable care for the health and safety of themselves, co-workers colleagues and the public, while also supporting its objective to continually improve health and safety conditions in the workplace by following the processes and reviews laid out in our management system.

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[TAFE] remains committed to continually improving its health and safety standards through the establishment of measurable objectives with set targets and the collection and analysis of data for these objectives to assist in the identification of areas for improvement.

### Responsibilities

The CEO, in conjunction with the Board will formally approve the Occupational Health and Safety Policy.

In general:

- Senior management is ultimately accountable, health and safety systems can only be effective with the active involvement of all who work at [TAFE]. Every individual at [TAFE] is responsible for ensuring they are informed on safety issues, follow safe work practices and suggest ways to improve safety in their work.
- Each of [TAFE]'s team members monitor, assess and control hazards relevant to them, within a framework of the organisational-wide policy. This ensures team members are involved in the discussion and decision making which impacts on their personal health and safety.

Directors will:

- Enforce the Occupational Health and Safety Policy and Procedures.
- Review overall organisational health and safety performance.
- Participate where required in the resolution of safety issues.
- Review all accidents/incidents and monitor corrective actions and prepare reports if appropriate.
- Review the health and safety performance of their areas of responsibility.
- Ensure organisational compliance with health and safety legislation.
- Demonstrate commitment to health and safety through participation in formal and informal discussions, workplace visits and hazard inspections, etc.
- Ensure consultation with employee health and safety representatives, particularly on any workplace changes which have a health and safety component.
- Initiate actions to improve health and safety.
- Regularly review the health and safety performance of supervisors.

Managers will:

- Implement the Occupational Health and Safety Policy, OHS Procedures and legislative requirements.
- Monitor health and safety performance within their area of responsibility.
- Demonstrate commitment to health and safety through participation in formal and informal discussions, workplace visits and hazard inspections, etc.
- Participate where required in the resolution of safety issues.

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- Investigate all accidents/incidents within area of responsibility.
- Ensure liaison with employee health and safety representatives, particularly on any workplace changes which have a health and safety component.
- Initiate actions to improve health and safety within area of responsibility.
- Actively monitor the workplace to determine presence of hazards and take appropriate action to rectify any hazards found.
- Participate in any local Health and Safety Committees.
- Ensure all team members are inducted and receive regular training as required to perform jobs safely.
- Facilitate rehabilitation of injured workers.

Employees will:

- Adhere to all safe working procedures in accordance with instructions.
- Take reasonable care of themselves and others who may be affected by their actions.

### Providing the necessary systems and resources

[TAFE] through a commitment by its board and senior management will ensure that it has in place the necessary systems and resources to ensure the OH&S is at the forefront of every level of its operations.

### Establish measurable Objectives & Targets

[TAFE], through its Executive Leadership Team, will set measurable objectives and targets to ensure continued improvement. These objectives will have the stated aim of:

- Reducing and where possible eliminating work-related illness and injury.
- Introducing and following safe systems of work (eg Policies and Procedures, Safety Instructions, JSA's).
- Providing training and awareness for all [TAFE] team members and, where appropriate, contractors.

### At all times comply with its legal requirements

[TAFE] will always, act professionally and responsibly in its operations, ensuring that it complies, as a minimum, with all relevant OH&S legislation, including published regulations and codes.

### Implementation, maintenance and communication of this policy

This policy:

- Has been endorsed by [TAFE]'s board and CEO.
- Is communicated to all employees through meetings and be on permanent display at all work locations. Each employee has also been provided with a copy through the Induction Handbook.

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### Availability of this policy

This policy shall be made available upon request, to all [TAFE]'s customers, contractors and suppliers or to any other interested parties.

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### OH&S ISSUE COMMUNICATION PROCEDURE

#### Purpose

The purpose of this procedure is to provide parameters for the communication of OH&S matters throughout the business. This applies equally to employees and contractors.

#### Communication methods

##### Designated Work Groups (DWG's):

A DWG is a grouping of employees who share similar workplace health and safety concerns and conditions. It may be made up of:

- Employees in one or more workplaces operated by a single employer; or
- Employees of multiple employers at one or more workplaces.

A DWG is established to form the 'electorate' that may elect HSR's.

An HSR is a person who has been elected by his or her co-workers to represent them on OHS issues. Where such representative is appointed, they will be trained in accordance with legislative requirements and [TAFE] policy.

**OH&S Committees** will meet at least every three (3) months and more often if necessary.

#### Tool-box meetings:

The Manager must communicate to all their employees and sub-contractors all Health & Safety Requirements. This should be undertaken by the holding of regular Toolbox meetings.

Minutes of the tool-box meetings are kept as Safety Committee minutes and are the main method of communication between [TAFE] and employees and contractors.

#### Safety Alerts

The Human Resources Manager is responsible for providing written communicators from time to time.

These shall be known as "Safety Alerts".

Safety Alerts shall be numbered and sent to Managers who will ensure that these are communicated to all employees and sub-contractors. Managers shall ensure that proof is recorded on the Safety Alert Receipt Form. Receipt forms shall be retained in a specific folder by the Manager.

The HR Manager shall record all Safety Alerts on the Safety Alert Register.

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### OH&S ISSUE RESOLUTION PROCEDURE

#### Purpose

This procedure aims to achieve the most speedy and effective resolution of all health and safety issues, as and when they arise. It is the responsibility of all management levels to resolve issues in their workplace. This procedure is applicable to all employees in the organisation.

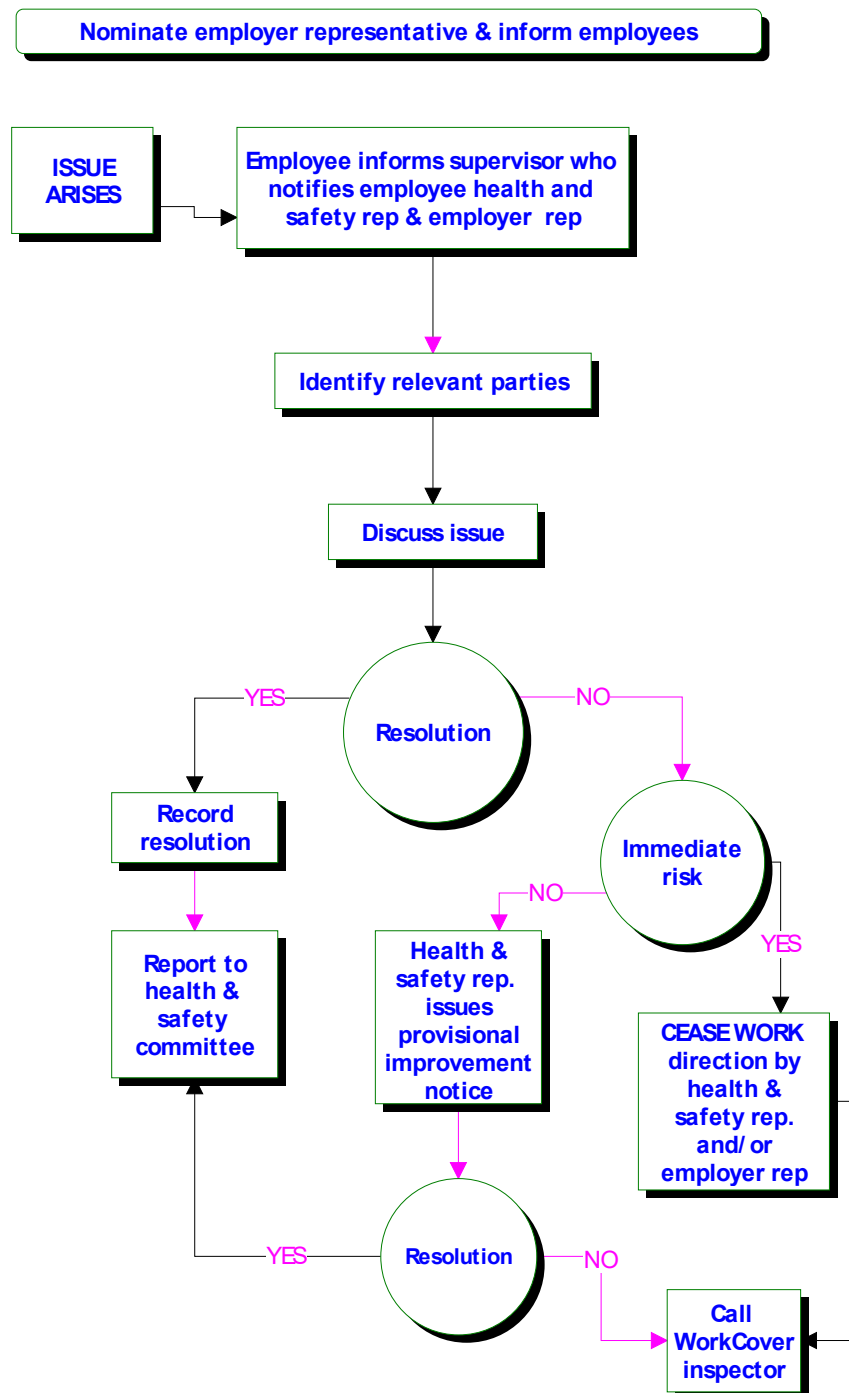
#### Procedure

The agreed procedure is as follows:

- Where an employee identifies a health and safety issue they should raise it with their immediate supervisor. The employee or supervisor should inform both [TAFE] representative and the employee health and safety representative for the designated work group.
- The issue should be dealt with as soon as possible after being reported. If it cannot be rectified immediately then a solution should be implemented as soon as practicable. As a minimum, interim measures should be put in place to prevent any adverse consequences until such time that the issue can be satisfactorily resolved.
- Note: A specialist may need to be engaged for advice, (eg hygienist for air monitoring).
- An employee health and safety representative has the power to issue a PIN where an issue fails to be resolved. Where the issue concerns work which involves an immediate threat to the health and safety of any person, the employee health and safety representative or employer representative may direct that work will cease. Where an issue or an immediate threat remains unresolved, the employee health and safety representative or employer representative may request the assistance of a WorkCover Inspector. The Inspector may issue an Improvement Notice or a Prohibition Notice.
- The issue and agreed outcomes should be communicated to the Health and Safety Committee.
- Solutions should be recorded as well as communicated to relevant employees for their information.

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## ISSUE RESOLUTION FLOW CHART



### Hazard Identification and Risk Assessment

A preliminary risk assessment shall be undertaken on all work places to identify and list OH&S Hazards and risks.

The hazards associated with [TAFE] work may include but are not limited to:

- Manual handling.
- Workplace hazards.
- Hazardous materials.
- Equipment, including knives.
- Electrical hazards (such as faulty or exposed wiring).
- Working at heights.
- Asbestos identification.
- Pests and vermin.
- Dust and allergens.
- Customer disputes.

The OH&S Hazards are identified using the Preliminary Risk Management form. It is important that this form be adapted to suit each work requirement and not be relied upon as a substitute for undertaking an initial risk assessment.

### Responsibilities

It is the responsibility of all senior and supervising management to ensure that our business and sites are run in a safe manner and staff and subcontractors are trained in occupational health and safety matters that affect their work place.

The CEO is responsible for implementing the provisions of this procedure as they relate to the projects [TAFE] work on. Supervisors and Managers are responsible for the safety issues and toolbox meeting activities on projects.

Each potential workplace hazard identified will be rated into 3 risk classes, which are as follows:

- Class 1: (High Risk): Does the hazard have the potential to kill or permanently disable you?
- Class 2: (Medium Risk): Does the hazard have the potential to cause a serious injury, or illness, which will temporarily disable you?
- Class 3: (Minor Risk): Does the hazard have the potential to cause a minor injury that would not disable you?

The Class 1 and 2 risks are identified as the hazards that need the most precautions. These Class 1 and 2 risks are therefore controlled using a Job Safety Analysis (JSA). Class 3 risks will be controlled through general discussions and utilising safe work methods.

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### Job Safety Analysis

A Job Safety Analysis (JSA) is completed at the beginning of each new job commenced by an [TAFE] installer or estimator. The JSA uses the information collected through the Preliminary Risk Assessment exercise to create a plan to prevent and control the risks.

The rating system ensures that all major hazards are managed within this system through the analysis of all Class 1 and 2 risks.

The JSA is created using the generic JSA document (SAFE 002) and the information collected through the Risk Assessment. The formulation of control measures relies on the professional competencies of the estimator or installation crew; however expert consultation will be utilised if required.

The JSA must contain:

- The name of the [TAFE].
- A description of the work activity and task to be undertaken.
- The date the JSA was developed.
- The name and signature of the person who developed the JSA.
- The location of the workplace.
- The job steps involved in completing the job.
- The class 1 and 2 risks associated with each step of the job.
- The controls that have been put in place to eliminate or minimise the potential hazards identified.

### Sub-Contractor Management

The sub-contractors' OH&S requirements are our OH&S requirements. It is our responsibility to ensure that sub-contractors follow the fundamental guidelines in this procedure, and develop their own safe work methods that [TAFE] monitor under this system. If Sub-Contractors do not have a JSA they are expected to work under the [TAFE] safety system in every way, including appropriate inductions.

### Regular Hazard Inspections

The HR Manager is responsible for carrying out regular safety audits on worksites and equipment.

The Supervisor is required to complete regular site inspections.

Any major safety concerns should be discussed immediately with Manager and HR Manager.

Results from the audits should be discussed at management meetings along with any other safety concerns noted from the audit. Serious issues identified through audits are reported as a Safety Incident on the Defect/ Suggestion Form. This information will be dealt with by the Manager and HR Manager.

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### Hazard Management

This analysis considers any aspects of the installation process that may, either directly or indirectly have an impact on the safe working environment that have not been covered by the Job Safety Analysis. These could present themselves as Incident Reports, through the regular inspections or through external communication, i.e. customer complaint, WorkCover Notice, Accident Report Form.

When managing the safety hazards and their risk, consideration should be given to the following:

- Legislative Requirements (Government or authority).
- Regulations (National, State or Local).
- Contractual agreements.
- Capability and Resources of the [TAFE].
- Other interested parties, reports, etc.

Consideration should also be given to obtaining advice from expert consultants or having tests performed if the situation requires. With the analysis completed and recorded, the installer can develop a control mechanism which will either be added to the JSA.

The hierarchy of controls that are considered and adopted in order are as follows:

1. **Elimination** - eliminate the work practice, materials, plant, or equipment responsible for the hazard.
2. **Substitution** - substitute the work practice, materials, plant, or equipment for a safer alternative.
3. **Engineering Control** - re-design the work practice, use of materials, plant or equipment to attain a safer alternative.
4. **Administrative Control** - changing the deployment of personnel to reduce exposure (job rotation, training preparation of a Safety Procedure or Instruction)
5. **Protective Equipment for Personnel** - select appropriate equipment/apparel to reduce risk/exposure.

Where the analysis determines that an Administration Control is the best alternative, the supervisor in consultation with the HR Manager is responsible for preparation of the control mechanism.

This may be to:

- Prepare new Safety Instructions (SI) or
- Amend existing SI or SP (Safety Procedure); or
- Use existing information as is.

To obtain the best SI or SP outside assistance may be required.

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Preparation of these documents may be delegated to anybody with the appropriate knowledge and training.

An [TAFE] folder or file is prepared to hold copies of each incident, complaint, etc and the control mechanism for auditing purposes. The control mechanism that is used is written up for the JSA.

### Safety Breaches

The Supervisor responsible for the site inspections shall notify the Manager of any safety breaches because of work on a site as a result of regular monitoring.

Immediate action is determined and carried out to mitigate the impact and ensure everybody's safety. A Suggestion / Defect form is then used to report the safety breach. The breach / incident will be reviewed by the Regional Manager / HR Manager and GM (if necessary) to determine any corrective actions or rectifications to the JSA.

A Safety Incidence Register is used to record all breaches and will be maintained by the HR Manager in such a manner that it is readily available for review / audit. It will also act as information source alerting to shortcomings in training, control measures, etc.

Depending on the severity of the incident WorkCover will be notified along with any other relevant body. All parties involved with the job will be advised and informed as necessary.

Safety breaches involving injury to any person on, or off, the site because of [TAFE] operations will require a First Aid and Accident Investigation.

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### HAZARD REPORTING

#### Purpose

This procedure describes how hazards are reported by employees. The Hazard Report applies to the reporting of any health and safety issues other than personal injury. (The Incident form is to be used for this purpose) The procedure applies to all employees and the employees of contractors.

#### Definitions

Hazard - potential to cause injury or damage.

#### Procedure

The Workplace Manager shall ensure that the Hazard Report Form is available to all employees in all work locations.

If there is an immediate risk of injury or illness an employee shall take action to make the area safe, ensuring their own safety is not jeopardised and immediately report the hazard to their supervisor

Employees shall immediately report any hazard to their supervisor and complete the Hazard Report Form. (SAFE 014) The employee should keep a copy of the completed form.

The supervisor on receipt of the Hazard Report Form shall:

- Act to remove the hazard if possible.
- Act to prevent employees being exposed to the hazard.
- Forward the Hazard Report to the Manager within 1 day of receiving the report.

The Manager shall forward all Hazard Reports to the Health and Safety Committee and shall allow the relevant employee health and safety representative access to the Hazard Report file.

Copies of Hazard Reports are to be filed at each location under "Hazard Reports".

The Workplace Manager is to ensure that an explanation of this procedure is included in the induction for new employees and contractors.

The Workplace Manager is to ensure that the Hazard Reporting Procedure is explained in regular workgroup meetings.

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### Claim for Worker's Compensation

The employee or contractor, if wishing to claim workers' compensation, must follow the procedure for lodging a WorkCover Claim.

#### WorkCover Authority Notification Requirements

If the injury is serious, there may be a requirement to notify the WorkCover Authority. The only persons authorised to do so are the General Manager and Human Resources Manager should be done following consultation with the OH&S Co-ordinator.

Definitions of "Notifiable incidences" are described in "Incident/Hazard Reporting and Investigation Policy and Procedure".

### Accident Reporting & Investigation

#### Purpose

This procedure describes the internal and external incident reporting and recording requirements of the organisation, and the procedure for accident/incident investigation. They specify who does the reporting, recording and investigating of incidents, and what forms must be completed.

#### Procedure

##### Notification to WorkCover

The only persons authorised to notify the work cover authority are the CEO and the HR Manager.

An incident must be reported if an incident at a workplace results in a death or serious injury.

Serious injury includes, but is not limited to, incidents that result in a person requiring:

- Medical treatment within 48 hours of exposure to a substance.
- Immediate treatment as an in-patient in a hospital.
- immediate medical treatment for:
  - Amputation.
  - Serious head injury.
  - Serious eye injury.
  - Separation of skin from underlying tissue (for example de-gloving or scalping).
  - Electric shock.
  - Spinal injury.
  - Loss of bodily function.
  - Serious lacerations.

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These incidents must be immediately reported to the GM and HRM.

### **Injury/Incident Reporting and investigation**

The Injury/Incident and Investigation Report (Form SAFE 003) is to be completed by the employee or the immediate supervisor within 12 hours of the injury or incident.

All injuries are to be reported. Incidents where a person could have been injured or equipment damaged must be reported.

It is the responsibility of the Section Supervisor to ensure the completed Injury/Incident Report is sent to the location indicated on the form within 24 hours of the time of the injury or incident.

On receipt of an Injury/Incident Report, the Section Manager shall immediately arrange for an investigation to be commenced. Injury/Incident Report Forms shall be accessible to all staff.

Supervision shall ensure that all staff is aware of the location of Injury/Incident Report Forms. The Section Manager shall file all Injury/Incident Reports in the Register of Injuries and Incidents.

For all injuries and incidents, an investigation report is to be completed by the Supervisor or HR Manager in conjunction with the employee involved and the employee health and safety representative for the area.

Training in accident investigation will be provided to supervisors and employee health and safety representatives. The report is to be completed within 24 hours of the incident and forwarded to the Regional Manager who will then on-forward to the HR Manager.

Each investigation should have attached to it a copy of the Injury/Incident Report. All WorkCover claims must have an investigation report completed.

### **Post-Accident Procedures**

#### **Initial Action including Critical Incidents**

Initial Action:

When an accident occurs, the initial actions taken are of vital importance as they will impact or potentially impact upon:

- The injured person.
- Workmates.
- Bystanders.
- You.
- Your [TAFE].

Action taken at this stage may well determine a number of outcomes in regard to human, financial and legal matters.

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It is essential therefore that there is a clear understanding of those procedures which must be followed immediately after an accident.

### Assessment of the Situation

The manager/supervisor taking charge of an accident situation will find the following order of events helpful. They can be remembered by the use of the work **SAFE**.

- S -** Stop the Danger
- A -** Aid the injured
- F -** Fast notification of the emergency services (ambulance etc)
- E -** Emotional condition of the injured worker(s)/bystanders (critical incidents).
- **“S” - Stop the Danger:**
  - The priority following any workplace injury is to assess the situation and to protect you, ensure others are not at risk and then attend the injured worker. Eg:
  - Switch off any electrical appliances.
  - Turn off ignition (crashed cars).
  - Keep people away from any fallen power lines.
  - Ensure no-one is smoking.
  - In road traffic accident situations safely position onlookers/vehicles to warn oncoming traffic.

Remember it is most important to ensure that the rescuers/helpers do not put themselves in danger and therefore compound the incident.

- **“A” - Aid the Injured**
- Depending on the situation administer immediate first aid to the injured if it is required. If necessary, call for qualified First Aiders and send immediately for an ambulance

(see Section “How to Call an Ambulance”).

Actions to be taken while waiting for qualified help arrive:

- Reassure the injured person that help is on the way.
- Make them as comfortable as possible.
- Cover with a light coat/blanket.
- Ensure that no drink/food/cigarettes are given.
- It may be necessary for the manager/supervisor to clear and secure the accident scene of any unnecessary onlookers to ensure the privacy of the injured person and to give the medical services room to work.

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- Do not move the injured person from the accident scene unless the situation is putting them in further danger eg smoke filled room.

If the injured person must be moved keep in mind the possibility of spinal injuries - keep their spine as straight as possible, special care should be taken to keep the neck straight.

To protect both yourself and the injured person from blood borne infections endeavour to avoid all contact with blood.

### Unconscious Person

- Where the injured person does not respond in any way to gentle shaking, simple commands etc they should be turned gently onto their side to minimise the risk of choking (keep neck supported and in line with the body while turning).
- **Note:** First Aiders should be given all assistance possible and their advice on handling the injured person followed.
- “F” -Fast Notification of the Emergency Services

The emergency services must be called as soon as possible after an accident occurs (it is not necessary to obtain a doctor’s authority to do this). A manager/supervisor must never assume that the service has been called. The facts must be verified.

### How to Call an Ambulance

- Briefly assess the emergency situation.
- Dial 000.
- Request ambulance service.

### Information required by the Ambulance Controller:

- Location of incident.
- Street name & house/depot number.
- Suburb.
- Nearest main road.
- Any other directions that might assist in locating incident eg km posts/signs/landmarks.
- Number of casualties (if anyone is trapped).
- Brief description of injuries.

DO NOT HANG UP the telephone until the ambulance controller says so.

If possible keep a record of the time the ambulance was called.

Managers/supervisors should delegate a person to watch and direct the ambulance to the incident.

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- “E” - Emotional Condition of all concerned in the Incident - Critical Incidents

A critical incident is any situation faced by an individual or group that evokes a strong emotional reaction and/or physical reaction and has the potential to interfere with the ability to function either at the time of the event or sometime in the future.

A critical incident does not only affect the person or groups directly involved but also impacts on co-workers, family members, support personnel and observers.

Some typical critical incidents are where:

- Deaths are sudden, violent or occur in horrifying circumstances.
- A colleague dies or is seriously injured at work.
- The situation threatens the life or safety of staff.
- There are a large number of casualties.
- People have sustained serious injuries.
- There has been a major disaster.
- A rescue operation fails.
- Staff are exposed to, or are dealing with, disfigured, burnt or dismembered bodies.
- There is a death or injury of a child in tragic circumstances.
- Witnessing suicide or discovering suicide victims (ie parked cars, roadside).

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### Manual Handling (Safe Lifting)

#### Policy

[TAFE] recognises and accepts its obligation to take all practicable action to ensure the Health and Safety of its employees. All [TAFE] employees have an obligation to support and assist in the reduction of injuries caused by bad practices in manually lifting and handling.

All employees should be aware of the injuries that can be caused by incorrect lifting and movement of loads by manual means.

#### Precautions Before Lifting.

- Stop and assess the load and if too heavy seek assistance.
- Consult management for heavy loads.
- Plan the lift by estimating the load and knowing exactly where it is to be placed.
- Avoid lifting heavy loads without help. Plan the lift together.
- Where possible use mechanical means, eg. fork lift.
- Avoid placing objects on the ground if they have to be picked up at a later date.
- Make sure objects to lift have sufficient space around to enable safe lifting.

#### Preliminary Steps to Take Before Lifting.

- Make sure you are capable of lifting and your body is warm and flexible especially when the weather is cold.
- Avoid reaching out. Handle heavy objects close to the body. Do not reach out to pick up any object.
- Keep yourself in good physical shape with proper exercise and diet.

#### When Lifting.

- Bend your knees, keep a straight back and make use of your legs to lift.
- Lift slowly and smoothly without jerking and when turning move feet. Do not twist or turn with hips or shoulders.

#### Suggestions

Should you consider [TAFE] could improve the way [TAFE] currently lift, stack or pick up objects, management would be most happy to consider your suggestion. Please contact your supervisor or the Safety Committee.

Your suggestion could save a workmate or yourself from possible serious injury.

Remember that the lift that is too heavy is the lift that injures you. Different weights suit different people. You be the judge and ask for help, and when asked help your workmates.

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### CONTRACTOR SAFETY

#### Purpose

This procedure aims to ensure that all services supplied to the organisation by contractors meet both external and internal health, safety and environmental standards.

#### Definitions

“Services” include any service which is provided by individuals who are not direct employees of the organisation such as maintenance, electrical work, building, etc.

#### Procedure

When it is proposed to use contractors to provide services to the organisation, the Contract Manager must determine the health and safety requirements that are to be incorporated into the works. Consultation with end users, internal consultative structures and those with specialist expertise may be required to help define these requirements for each contract.

If tenders are called the potential contractors will be required to submit details of their health and safety management system with their tender.

As part of the selection process, the HR Manager shall complete a review of the potential contractors’ health and safety management system to ensure that they can perform the work safely and meeting the requirements specified.

Any site-specific health and safety requirements are to be determined when the formal contract is being prepared and attached to the contract documents.

Regular checks are to be conducted to confirm that the contractor is conforming to the health and safety requirements of the contract.

A list of approved/preferred contractors should be established to call upon at short notice for minor contract works, without the need to conduct a separate evaluation of their health and safety management system for each new contract. Contractors on the approved/preferred list shall be subject to periodic reviews of their health and safety systems and actual performance.

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### First Aid

#### Purpose

These procedures outline the first aid arrangements and facilities within the organisation to ensure that emergency treatment is provided for persons suffering injury or illness at work. They also cover the first aid treatment of non-employees who may visit the workplace.

#### Definitions

First Aid Facilities - includes first aid kits and contents, first aid rooms and equipment

#### Procedure

Each Manager shall arrange for a first aid assessment of the area(s) of responsibility.

The first aid assessment shall be performed by the Manager (or nominated person) the Health and Safety Representative and relevant first aid personnel.

The assessment team will:

- Identify and assess workplace risks through examination of previous work related injury and illness
- Determine the appropriate first aid facilities and training required through an assessment conducted in consultation with employees which follows the process in the referenced Code of Practice. The outcome of the assessment will be documented on the form (attached).

The xxxxxx Managers shall ensure that all designated first aiders have current certificates and that a record of these is retained on the Training Register.

The Manager shall check first aid facilities on a regular basis and keep a record of these checks using the inspection record.

The Manager shall ensure that all first aid treatment is recorded.

The Manager shall review the first aid system every year.

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### No Smoking

[TAFE] is committed to providing a safe and healthy workplace to all its workers, contractors, and visitors in accordance with legislative requirements.

There is clear evidence that both active and passive smoking of tobacco products is not healthy and causes a range of serious illnesses.

Smoking is also a serious fire and explosion hazard that can potentially cause catastrophic harm to people, environment and assets.

To minimise the health and safety hazards associated with smoking in the workplace, [TAFE] will:

- Prohibit smoking in all areas of [TAFE]' premises including car parks and company vehicles, except in designated smoking areas and only during designated break times;
- Prohibit the use of e-cigarettes or similar device on all sites;
- Prohibit smoking in all vehicles owned by, leased by or otherwise present on [TAFE] sites. This includes all private vehicles;
- Display adequate signage and provide appropriate designated smoking areas;
- Provide education regarding the health and safety hazards of smoking and the importance of being smoke-free;
- Encourage smoking cessation and provide support and assistance to employees who wish to quit smoking;
- Ensure all workers are aware of the smoking policy, in addition include the policy requirements in the induction program for new workers upon commencement of employment;
- Ensure all contractors, tenants and visitors of [TAFE]' are aware of the smoking policy.

[TAFE] supports all employees in the cessation of smoking however does not endorse the use of any apparatus that mimics cigarette smoking in the workplace. Use of these devices must adhere to the process above. Discreet devices such as patches, lozenges, etc are permitted during work hours

Failure to comply with this policy will be dealt with in the same manner as a breach of the Workplace Health and Safety Policy or Code of Conduct and may result in disciplinary action, which may include termination of employment.

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### Alcohol & Other Drugs Policy

#### Preamble

[TAFE] requires that its staff and contractors must not be impaired by alcohol or other drugs during their duties. Further, inappropriate or unlawful conduct that arises out of the use of alcohol or drugs can expose [TAFE] and the individual to legal liability.

This policy should also be read in conjunction with the “Alcohol and Other Drugs Testing Policy and Procedure”.

#### Purpose

The purpose/objectives of this Policy are to:

- Create a safe and healthy work environment free from the risks of hazards and injury associated with the possession, consumption or use of alcohol and/or other drugs
- Foster a behavioural attitude amongst all staff members that it is not acceptable to come to work under the influence of alcohol and/or other drugs that will prevent them from performing their duties in a safe manner
- At [TAFE] sole discretion, offer confidential counselling for individuals with alcohol and/or other drug related problems

#### Responsibilities

Staff and Contractors:

Staff, including contractors and their employees, must adhere with the measures in place to control hazards relating to alcohol consumption and drug use. This means they must:

Follow [TAFE] and clients’ (where applicable) policies in relation to controlling risks associated with alcohol consumption and drug use

- Inform their supervisor, if they:
  - Suspect they are in an impaired condition due to alcohol consumption or drug use.
  - Suspect or observe another staff member or contractor is in an impaired condition due to alcohol consumption or drug use.
  - Are using prescribed or over the counter medications that can affect their ability to perform their work safely and discuss suitable alternative work arrangements.
- Not attend for work if adversely affected by alcohol or drugs.
- Not take alcohol or prescribed drugs onto [TAFE] property or vehicles without permission of Management (and under no circumstances illicit drugs).
- Attend work on time and in fit a state to carry out their duties in a safe and efficient manner. This means that they must be free of the effects of drugs (whether illicit or prescription) or alcohol whilst at work.

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- Not give another person or cause another person to be given or to consume food or drink which contains an intoxicating substance without that persons full knowledge.
- Not engage in inappropriate or unlawful behaviour on [TAFE] premises as a result of consuming alcohol or other drugs.

[TAFE]:

[TAFE] will use its best endeavours to:

- Provide a workplace which is not affected by alcohol and drug use.
- Make information available to all staff members on the effects of alcohol and drugs on workplace safety.
- [TAFE] does not support nor condone binge drinking, adhering to the responsible serving of alcohol set out in this policy (where relevant).
- In some cases, provide access to the Employee Assistance Program (EAP) for its staff members.

### Policy

[TAFE] is committed to doing its utmost to provide a productive, safe and healthy work environment.

Persons who are Impaired by alcohol or drugs or Intoxicated at work seriously undermine this commitment. It can also compromise the health, safety and welfare of the individual concerned, as well as other staff and visitors, and may affect an individual's ability to perform their duties competently and safely.

Alcohol and drugs (over the counter, prescribed, or illegal drugs) have effects that can continue beyond the point in time of alcohol consumption and drug use. It is also important to note that other factors, such as fatigue, may also affect the latency of any drugs and alcohol consumed.

### Work functions

[TAFE] has a ban on the consumption of alcoholic beverages whilst at work, subject to individual exemptions authorised by the Manager and at such times that will not affect customer service.

In such cases staff must ensure that the amount of alcohol consumed will not cause them to be in breach of any law.

It should be noted that any work functions held away from [TAFE] premises, regardless of whether they are within normal working hours or not, are also included in these standards of behaviour.

The function should be for a reasonable period. It should not be treated as a reason to drink as much in as little amount of time possible nor should it be open-ended.

All functions must be well catered for. It would be advisable to seek the input of your staff to check for special dietary requirements (eg vegetarian).

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Full strength beer may be supplied subject to responsible serving and allocation, and a good supply of low alcohol and non-alcoholic beverages should also be on hand.

Staff are to be reminded of [TAFE] harassment policy. This policy applies equally whilst at work and at work related functions.

Breach of this policy will see the offender liable to serious disciplinary action, including termination of employment, and may subject the offender and [TAFE] to litigation which can result in hefty fines.

Respect and dignity are the watchwords. If at a function away from work, then the staff members' behaviour is reflective of [TAFE] image, and loss of reputation.

No staff member is permitted to drive a [TAFE] vehicle or operate any equipment after consuming alcohol.

Staff members should be encouraged to take a taxi or appoint designated drivers if they wish to drink alcohol during these functions.

### **Business functions**

During employment with [TAFE], staff may be required to attend official [TAFE] functions. Alcohol consumption at these functions is to be avoided or at best kept to a strict minimum and the staff member should not contravene any law because of such alcohol consumption or impinge on [TAFE] reputation.

### **Confidential Referral and Counselling for Drug and Alcohol Related Problems**

[TAFE] acknowledges that staff may experience problems because of using alcohol or other drugs. While this does not excuse poor performance, alcohol and drug related problems should be addressed in a supportive manner.

[TAFE], at its sole discretion, may provide support by assisting the staff member with referral for treatment and confidential counselling services. Referral will be coordinated between the staff member and their medical practitioner.

The rights of staff to privacy and confidentiality are respected, but this must be balanced with [TAFE] duty to maintain a safe and healthy workplace for all staff, contractors and visitors.

### **Employee Assistance Program (EAP)**

Upon request or referral from management, [TAFE] provides access for all staff members to an Employee Assistance Program (EAP). This service is confidential and allows staff members to access the service without notification to [TAFE].

The EAP provides support and advice in relation to a wide range of issues, including drug and alcohol matters, as well as providing counselling and other support.

Staff members with issues or concerns relating to their use of alcohol or drugs are encouraged to seek assistance from this service.

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For contact details, or further information on this service, contact Head Office.

### **Managing a Staff Member who may be effected by drugs or alcohol**

Note: Appendix "A" provides guidance on signs that may indicate a person is adversely affected by alcohol or drugs.

If a staff member presents to work in a state that appears to indicate they are under the influence of drugs or alcohol, fellow staff members are to immediately report this observation to their manager, and not proceed with any activities for which safety may be compromised.

Care needs to be taken when making this judgement in case the worker is ill or injured, taking prescribed medication, or in some other form of distress, that may account for their behaviour.

HR personnel can assist the manager.

### **Compliance and Breaches**

[TAFE] may commence disciplinary action, including termination of employment for staff members who do not comply with this policy.

In some instances, the matter may be referred to police.

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### Workplace Violence &/or Aggression

#### Purpose

The purpose of this procedure is to:

- Provide a framework for the prevention and management of workplace violence;
- Promote zero tolerance to workplace aggressive behaviour and violence;
- Promote a safe working environment for all employees and volunteers; and
- Promote strategies for the management of workplace aggressive behaviour and violence.

#### Responsibilities

All managers and supervisors are responsible for promoting a workplace free of aggressive behaviour and violence; this would include the management of incidents involving aggressive behaviour and violence.

#### Procedure

Workplace violence is recognised as a significant workplace hazard. Numerous personal and business risks are associated with exposure to violence including physical and emotional trauma, low morale, high staff turnover, financial costs, lost productivity, lessened public opinion and litigation. Occupational health and safety legislation requires employers to take all practical steps to eliminate as far as possible workplace violence risks. If a violent incident does occur, there should also be response procedures in place to minimise the impact of the event.

#### Right to Work in a safe environment

Employees and volunteers have the right to work in an environment free from aggressive behaviour and violence. Clients and others also have the right to receive services, in an environment free from risks to their personal safety.

Employees and volunteers who believe they are subjected to workplace violence and aggression are encouraged to report such incidents to their supervisor. All complaints will be treated seriously and will be investigated promptly.

Support mechanisms will be made available to all employees/volunteers, through an Employee Assistance Program or the internal support network.

It is important to note that an employee, volunteer or employer does not have the right to retaliate physically to an act of assault unless the responding action is deemed to be self-defence and is of equal intensity.

Violence towards staff and others is a significant OH&S issue, and just like other aspects of OH&S, all staff and volunteers have a role in, and responsibility for, maintaining a safe workplace.

#### Definitions

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**Zero tolerance:** a complete refusal to tolerate aggressive behaviours. It is important to differentiate unacceptable workplace aggressive behaviour from that of behaviour demonstrated because of a medical condition such as dementia, hypoxia or brain injury, for example.

**Workplace aggressive behaviour:** incidents, perceived or real to individuals, when they are abused, threatened or assaulted in circumstances arising out of, or during their employment, involving an explicit or implicit challenge to their safety, health or wellbeing.

**Workplace violence:** an action or incident that physically or psychologically harms another person. It includes situations where employees and other people are threatened, attacked or physically assaulted at work.

**Non-physical violence** such as verbal abuse, intimidation and threatening behaviour, may also significantly affect a person's health and wellbeing. Threats may be perceived or real and there does not have to be physical injury for the violence to be a workplace hazard. Employees may be affected by workplace violence even if they are not directly involved.

**Physical violence:** the use of physical force against another person or group that results in physical harm. It includes, but is not limited to, pinching, biting, pushing, spitting, slapping, kicking, beating, shooting and stabbing.

**Psychological violence:** the use of power against another person or group that results in psychological harm or an inability to develop professionally. This includes, but is not limited to, verbal abuse, suggestive behaviour, threats of physical abuse, intimidation and bullying.

### Guidelines

These guidelines provide information for employees and volunteers on how to promote a working environment free from workplace aggression and violence and how to resolve complaints if incidents are reported.

A fundamental principle underpinning the development of the policy and guidelines is that employees and volunteers have the right to work in an environment that is free from workplace aggression and violence.

### Zero Tolerance

The zero-tolerance response means that in all violent incidents, appropriate action will be taken to protect staff, volunteers, clients and visitors from the effects of such behaviour. To create and nurture a culture of zero tolerance, certain messages need to be communicated and regularly reinforced to managers, staff, clients and others.

These strategies should be specifically designed to meet local needs ensuring that managers, staff, volunteers, clients and visitors clearly understand that workplace aggressive behaviour and violence is unacceptable. Crucial to the success of creating a zero-tolerance culture is the active elimination of internal violence and aggression.

### Training in Prevention of Workplace Aggression and Violence

[TAFE] will provide training in prevention of workplace aggression and violence and the management of violent incidents and attendance is mandatory.

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### Risk Management Approach

A risk management approach to workplace aggressive behaviour and violence must be adopted. Thorough risk assessments of all services will be undertaken to identify any risk of workplace violence and to implement appropriate control strategies.

### Warning signs of Violence

Warning signs/cues of violence	Responses that may help diffuse aggression
Repeated succession of questions	Appear calm, self-controlled and confident, confirming that you are addressing their concerns.
Using another language in an aggressive manner	Identify language origin and locate interpreter to assist.
Using obscenities or sarcasm	Do not match their language
Shouting	Ask for information with a calm voice
Replying abruptly or refusing to reply	Calmly confirm the received information back to the assailant
Rapid breathing	Breathe slowly and evenly
Pacing	Attempt to sit them comfortably
Clenched fist or pointing fingers	Do not fold your arms or clench your fists in reaction
Invading your personal space	Maintain a comfortable distance
Staring	Maintain normal, but broken eye contact
Tight jaw with clenched teeth	Open hands to the assailant
Shoulders squared up and dominating	Stand to the side.

### Consultation

Consultation is pivotal at all stages of the risk identification, assessment and control process and an integral part of good management. Consultation with occupational health and safety

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representatives, security experts, employees/volunteers and union representatives should occur to identify risks and effective solutions.

### Incident reporting

[TAFE] policy is that all incidents should be reported through its Incident/Accident reporting mechanisms, regardless of whether the incident results in an injury or lost time. The objective of incident reporting is to identify trends and develop strategies for prevention and reduction.

Staff and volunteers are to be made aware of reporting requirements and be actively encouraged and supported in reporting all violent incidents.

### Responding to Violence

#### Immediate response options

Every effort should be made, via the risk management process, to prevent violence occurring. However, if a violent incident does eventuate, it is important that staff and volunteers are aware that they do have a range of response options. These responses will depend on many factors including the nature and severity of the event, whether it is a client, visitor or intruder and the skills, experience and confidence of the staff member(s) or volunteer(s) involved. Responses may include calling for backup, security or local police.

When a client becomes violent, consideration should always be given to the possible causes of the behaviour. A violent outburst may be secondary to many medical conditions. After ensuring staff/volunteers and other clients' safety, assessment and prompt action should be of primary concern.

In dealing with hostile (or potentially) people:

- Always check for specific risks and recommendations from other sources, and abide by these at all times.
- Be aware of the potential for hostility and utilise Standard Precautions techniques with all clients.
- If a client is hostile (or potentially so) ensure a staff member is not alone with him/her. Access to a working telephone is essential.
- Remain calm, but firm. End the interview if the situation is becoming hostile. Do not wait until it is too late.

#### Post incident response

When the incident is concluded staff/volunteers should be provided with clear guidelines regarding support services (if they have not already been provided), and the option of time out from duties. Appropriate psychological and operational debriefing should be set up and coordinated.

In addition a management review of the incident by appropriate staff and experts such as a security consultant should be included. The purpose of a review is to critically analyse how

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the incident was managed with a view to setting new standards for management of future incidents.

### Incident reporting

Violent incidents must be reported and recorded using the appropriate form and forwarded to the manager or supervisor.

Depending on the nature of the incident, it may also necessitate reporting to external agencies such as WorkCover, Police or other appropriate external organisations.

### Incident investigation

The most effective way to prevent a recurrence of an incident is to determine why it happened and if it was preventable. Incident investigations should:

- Be undertaken promptly by the manager or supervisor in consultation with occupational health and safety representative and/or relevant staff/volunteers.
- Not apportion blame.
- Be conducted in a supportive and non-judgmental way.
- Identify underlying root cause/s and contributing factors.
- Consider all sources of relevant information for example witnesses, incident reports, relevant work policies and procedures, the working environment, equipment used, level of supervision at the time, relevant training provided and expert advice including occupational health and safety or risk management staff.
- Include an operational review if relevant.
- Identify and recommend control measures to prevent a recurrence.

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### Working at External Locations

#### Risk management

Employees working in the community face a set of risks associated with working in an environment not under the control of the employer and away from the immediate support of their colleagues. Where the threat of violence presents itself, staff members/volunteers should retreat and/or seek further assistance, for example police if required. Where retreat is not an option that is the staff member/volunteer is trapped with an assailant, all non-physical strategies have failed, and the individual is under imminent or actual attack, evasive self-defence may be the only option.

Any incident, whether threatened or actual needs to be reported as per local reporting procedures, investigated and solutions proposed and implemented as far as practicable to prevent a recurrence. If a staff member or volunteer is assaulted, the matter should be reported to the police.

#### Remote Services Risk Management

Support workers in rural and remote areas face unique challenges such as isolation and limited support that can make implementing risk controls and managing violent incidents particularly difficult.

The risk management process may be influenced by such factors as:

- Position held by staff member/volunteer.
- Type of community worked in.
- Degree of isolation of the community.
- Access to emergency service (for example the police).
- Working arrangements, for example, on call.

#### Response management

In rural and remote services, it is important that there is an appropriate and consistent response to violence. Reduced options for receiving care in some communities can limit options for providing alternatives for service delivery to violent clients requiring ongoing or regular care, or for related strategies to manage regular visitors with a history of violence.

It is particularly important that staff and volunteers working in rural and remote areas 'get the message' that violence is not acceptable, and that action will be taken to ensure that staff, volunteers, other clients and visitors are protected from such behaviour.

The effective management of incidents requires that staff and volunteers are well prepared in the event of a violent incident. Preparedness includes gathering information that is relevant to the local services and region, developing local policies and procedures that will work in a situation, and setting up support systems to assist the recovery of victims of violence.

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Consultation and close liaison with local police should be a key part of local planning. If a staff member or volunteer is assaulted, the matter should be reported to the police.

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### WORKCOVER

#### Purpose:

- To ensure that WorkCover claims are dealt with according to legislative requirements.
- To facilitate the provision of suitable and just compensation to injured workers and to ensure efficient processing of claims.
- To foster an environment of support for injured workers and to facilitate effective rehabilitation.

#### Policy:

The Institute will comply with legislative requirements relevant to WorkCover claims management.

The Human Resources Department will ensure that accident and incident reporting mechanisms are current and readily accessible to employees when required, and that relevant information and assistance is given to injured workers regarding administrative processes, rights and entitlements.

The Institute will maintain as far as possible confidentiality in respect to all WorkCover claims.

The institute shall also consider its responsibilities to ensure that the claim is not fraudulently made.

#### Responsibilities:

The Human Resources Manager has overall responsibility for the application of relevant legislation, the administration of WorkCover within the Institute and consideration of liability for claims.

Human Resource Officers are responsible for:

- Developing effective working relationships between management and staff in regard to WorkCover and rehabilitation matters.
- Liaison with and advising injured workers and supervisors on all matters related to WorkCover claims and return to work/rehabilitation.
- Receiving and processing all WorkCover claims, including receipt, validation and management of relevant documentation and records.
- WorkCover matters.
- Making recommendations to the Human Resources Manager regarding an occupational rehabilitation program.
- Liaison with the Authorised Insurer, including claims review meetings, submission of medical accounts and reconciliation of claims.

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- Liaison with treating Doctors and Rehabilitation Providers.
- Liaison with supervisory personnel and OH&S representatives regarding WorkCover matters.

### Key implementation guidelines

WorkCover claims may be either of two types:

#### 1. Below Threshold Claims:

These are claims for absences from work for ten days or less and/or medical and like expenses that do not exceed the threshold as determined by the VWA.

#### 2. Standard Claims:

These are claims for absences from work that exceed ten days and/or medical and like expenses that exceed the threshold as determined by WorkSafe.

A claims process is established that identifies the employee's responsibility to:

- Immediately seek medical help if necessary.
- Advise their supervisor/Human Resources Officer as soon as possible of the nature and cause of the accident/injury.
- Complete a Register of Injury form.
- Lodge a Worker's Claim for Compensation form and an Injury/Accident Report form.
- Provide a Certificate of Capacity.

In the event of an employee sustaining illness or injury, the supervisor provides support and assistance and refers them to the Human Resources Department.

The Human Resources Department provides all necessary information, advice and claims documentation.

On receipt of a valid claim (i.e. all forms and supporting documentation including *Certificate of Capacity*) the Human Resources Manager will determine the Institute's liability. *Determination of liability must occur within 10 days of receiving a valid claim.*

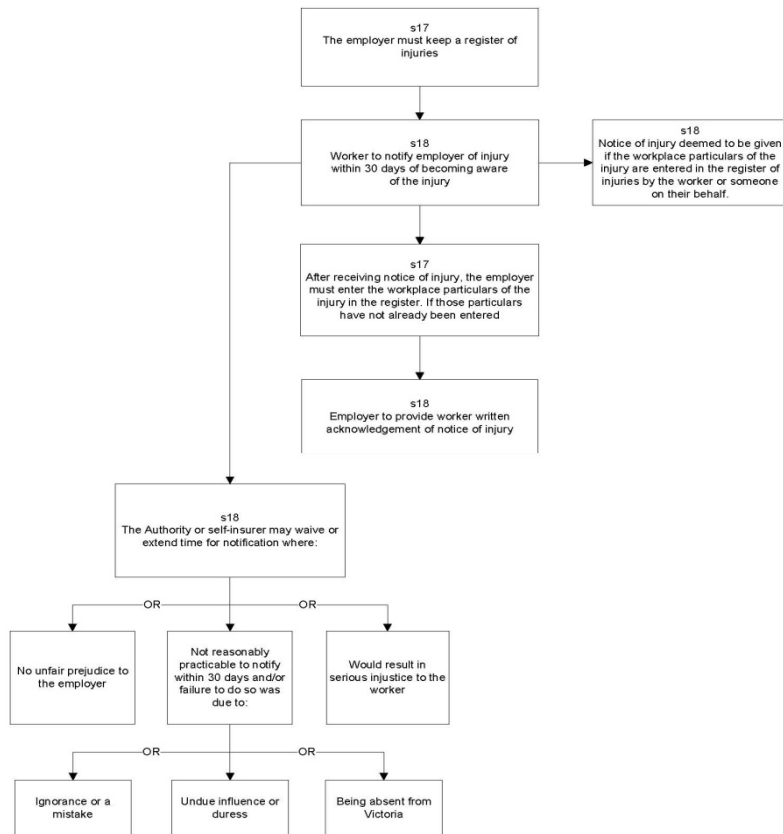
In determining liability consideration is given to:

- information provided on the Certificate of Capacity;
- information provided by appropriate supervisors or other staff;
- Whether the illness or injury is within the definition of injury (per relevant Act – see "definitions" above);
- Advice from the Authorised Insurer; and

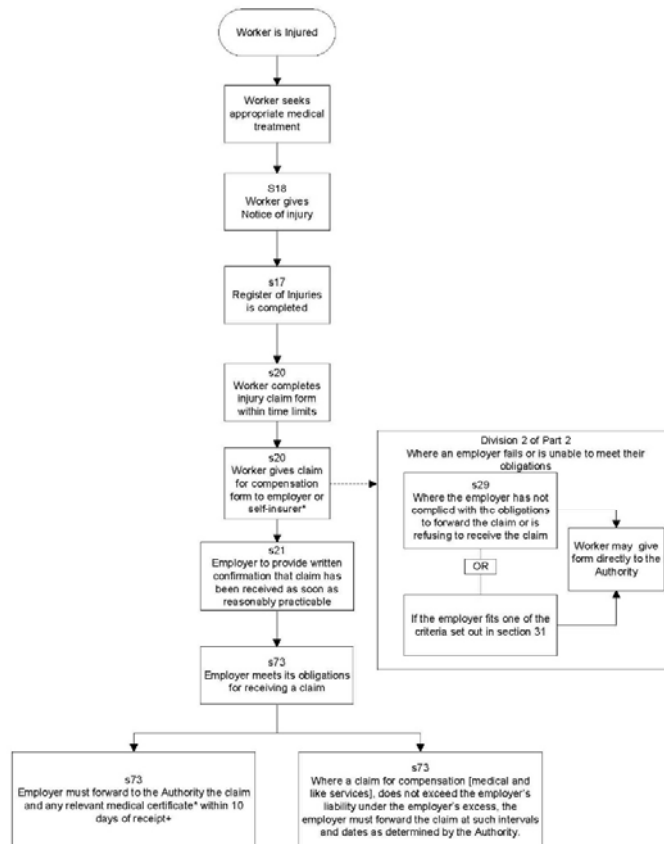
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- Any other relevant information.

### Notice of injury flowchart



### Making a claim flowchart



\*Where the claim for compensation is in the form of weekly payments, the worker must provide medical certificate  
 +Where an employer fails to forward the claim for compensation within the required timeframes, the employer may incur additional liability and penalties for failure to forward claim without reasonable cause

### Claims Management

#### Introduction

The Victorian WorkCover Authority (formerly known as WorkSafe) oversees entitlements to compensation after a work-related injury, and compensation and support for family members following a work-related death.

Compensation claims are dealt with by the Institute and the authorised insurance [TAFE] that pay benefits to injured workers, collect premiums, manage compensation claims and provide return to work and risk management advice.

#### Definitions

**Disease** includes:

- Any physical or mental ailment, disorder, defect or morbid condition whether of sudden or gradual development; and
- The aggravation, acceleration, exacerbation or recurrence of any pre-existing disease;
- **Heart attack injury** means an injury to the heart, or any blood vessel supplying or associated with the heart.
- **Industrial deafness** means any condition of deafness caused by:
  - Exposure; or
  - Continued exposure; or
  - Periods of continued exposure to industrial noise.
- **injury** means any physical or mental injury and, without limiting the generality of that definition, includes:
  - Industrial deafness; and
  - A disease contracted by a worker during the worker's employment (whether at, or away from, the place of employment); and
  - A recurrence, aggravation, acceleration, exacerbation or deterioration of any pre-existing injury or disease.
- **Stroke injury** means an injury to the brain, or any of the blood vessels supplying or associated with the brain.
- **Suitable employment**, in relation to a worker, means employment in work for which the worker is currently suited. Having regard to the following:
  - The nature of the worker's incapacity and the details provided in medical information including, but not limited to, the certificate of capacity supplied by the worker;
  - The nature of the worker's pre-injury employment;
  - The worker's age, education, skills and work experience;
  - The worker's place of residence;

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- Any plan or document prepared as part of the return to work planning process;
- Any occupational rehabilitation services that are being, or have been, provided to or for the worker;

Regardless of whether:

- The work or the employment is available; or
- The work or the employment is of a type or nature that is generally available in the employment market;

and includes:

- Employment in respect of which the number of hours each day or week that the worker performs work, or the range of duties the worker performs, is suitably increased in stages in accordance with return to work planning or otherwise; and
- Employment the worker is undertaking or that is offered to the worker, regardless of whether the work or the employment is of a type or nature that is generally available in the employment market; and
- Suitable training or vocational re-education provided by the employer, or under arrangements approved by the employer (whether or not the employer also provides employment involving the performance of work duties), but only if the employer pays an appropriate wage or salary to the worker in respect of the time the worker attends suitable training or vocational re-education;

### Application of the Act to injuries

The worker may be entitled to compensation if:

- An injury to the worker arising out of, or during, or due to the nature of, employment; and
- An injury arising out of, or during, or due to the nature of, employment; and
- By way of gradual process over a period.

### Claims Process

The VWA has set out a four (4) step claims process for employers:

#### Step One: If your worker has a work-related injury or illness

- Seek appropriate treatment
- If there has been a serious incident, notify Victorian WorkCover Authority (VWA) immediately on 13 23 60.
- Ensure the Register of Injuries is filled out.
- Communicate regularly with your worker while they are off work.

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- Start planning for return to work.

Anyone injured or ill to seek appropriate treatment.

If an accident or serious incident has occurred, the most important thing is your worker's health and getting appropriate treatment. This will depend on the type of injury or illness your worker has.

If there has been a serious incident, notify HR so they can contact the VWA immediately on 13 23 60.

Incidents that cause, or could have caused, serious injury or death, must be **reported to VWA immediately on 13 23 60**. You must also send a completed Incident Notification Form to VWA within 48 hours. You must keep a copy of the completed form in your records for five years.

### Ensure the Register of Injuries is filled out

Any injury or illness should be recorded in your workplace's register of injuries. The injured worker or someone on their behalf should complete the Register of Injuries.

### Keep in contact with your worker if they are away from work

If your worker needs time off work, keep in contact with them while they are away. Explore what your worker *can* do at work rather than what they *can't* and talk to them about it. People generally recover better and faster if they can safely stay at work while they recover.

### Start planning for return to work

At the point you know a worker is injured and can't perform their normal duties, it's important to provide them with return to work information and start planning for return to work.

If your injured worker has visited the doctor, the doctor may call you to discuss options to help the worker return to work as soon as safely possible.

### What your worker should be doing

My worker should:

- Seek appropriate treatment.
- Notify you in writing of their injury or illness.
- Decide whether they wish to make a claim.

### Step Two: Lodging a claim

If a worker chooses to make a claim for a work-related injury or illness, they will need to complete the **Worker's Injury Claim Form** and give it to you to complete the Employer section. You should also follow this process if you receive a **Dependent's claim for compensation form**.

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- Acknowledge that you have received the claim in writing
- Complete an Employer Injury Claim Report
- Lodge the claim online within 10 calendar days
- You may be asked to co-operate with a Circumstance Investigator
- Your worker may be required to attend an examination
- Appoint a Return to Work Coordinator if required
- Develop a return to work plan
- Stay in contact with your worker while they are off work

### **Acknowledge that you have received the claim in writing**

This can be done by giving the worker a copy of the claim form when you have completed your section.

### **Complete an Employer Injury Claim Report**

Complete an Employer Injury Claim Report and then submit the following documentation to your Victorian WorkCover Authority (VWA) Agent:

- Worker's Injury Claim Form.
- Employer Injury Claim Report.
- Injured worker's medical certificate ('Certificate of Capacity').
- Any other relevant documentation, e.g. invoices or receipts for medical expenses.

You must lodge the claim with your VWA Agent within 10 calendar days of receiving the claim form from your worker.

There can be penalties for failing to meet this timeframe.

### **Lodge the claim**

You can lodge the claim form and the required documentation through your VWA Agent's online claim lodgement system.

Alternatively, you can mail the documentation to your VWA Agent. Once you have submitted the claim documentation your VWA Agent will contact you.

### **You may be asked to cooperate with a Circumstance Investigator**

A Circumstance Investigator may be appointed to obtain relevant documents and interview witnesses about your worker's claimed injury. This is your opportunity to give the VWA Agent detailed information about the injury and the events that took place.

### **Your worker may be required to attend an examination**

Independent medical examinations of workers are conducted to provide impartial information to help your VWA Agent make decisions about your worker's entitlement to

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weekly payments and treatment and to support their recovery, rehabilitation and return to safe work.

### **Appoint a Return to Work Coordinator if required**

It is important that you nominate and appoint a Return to Work Coordinator who has an appropriate level of seniority and is competent. This is a requirement if your worker has an incapacity for work and you don't already have a Return to Work Coordinator.

### **Develop a return to work plan**

When someone isn't working their health and wellbeing can quickly deteriorate. So starting the planning process for a timely and safe return to work is a critical step.

Successful return to work planning can only occur with the involvement and support of all parties. Crucially, this includes your worker and their treating health practitioner – under the law you have an obligation to consult with them (with the worker's consent).

You should also include your VWA Agent and the worker's occupational rehabilitation provider (if one is appointed) in return to work planning to ensure you obtain relevant information about the worker's capacity for work.

### **Stay in regular contact with your worker while they are off work**

Explore what your worker *can* do at work rather than what they *can't* and talk to them about it. People generally recover better and faster if they can safely stay at work while they recover.

### **Tips and tools to help you through this stage**

*Give your VWA Agent details of the last 52 weeks (or less if applicable) of your worker's earnings (this will assist with calculating weekly payments for your worker if the claim is accepted).*

*Keep copies of anything that you send to your VWA Agent.*

### **What your worker should be doing**

If your worker wants to make a claim, they should:

- Obtain a Certificate of Capacity (the first certificate must be issued by a medical practitioner).
- Obtain and complete the Worker's Injury Claim Form.
- Submit the claim form to you.
- Plan with you about returning to work.
- Attend an Independent Medical Examination if required.

### **What your VWA Agent should be doing**

Your VWA Agent will:

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- Review the claim documentation and may contact you for further information or appoint a Circumstance Investigator.
- Notify you within 28 days about the outcome of your worker's claim.

### Step Three:

You have received a phone call or letter advising you of the outcome of your worker's claim. Find out about your next steps if:

#### The claim has been accepted:

- Continue to plan for your worker's return to work.
- Ensure your worker continues to be paid if they lose income.
- Forward any Certificates of Capacity to your VWA Agent.
- Pay any medical excess.
- Comply with your obligations.

#### The claim has been rejected:

- Your worker may have the claim decision reviewed
- Continue to plan for your worker's return to work
- Your worker can use their accrued leave entitlements

#### If the claim has been accepted

- Continue to plan for your worker's return to work.
- If your worker needs time off work, stay in touch with them while they are away and talk with them about what they *can* do at work rather than what they *can't*.

#### Ensure your worker continues to be paid if they lose income

Your worker will give you a medical certificate, called a Certificate of Capacity, if they need time off work or modified duties or hours. If your worker's weekly payments claim is accepted you are liable to pay the first 10 days of their incapacity for work, unless you have chosen the excess buyout option on your VWA Insurance. Your VWA Agent will advise you of the weekly payments amount you should pay your worker. This is based on the information you have given them about the worker's pre-injury average weekly earnings (over the last 52 weeks or less if applicable).

Fill out the Calculating pre-injury average weekly earnings form and send it to your VWA Agent to ensure weekly payments are calculated at the correct rate.

After the first 10 days have been paid, your VWA Agent will reimburse you for any further weekly payments that you make to your worker before they return to full duties.

#### Forward any Certificates of Capacity to your VWA Agent

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Forward all Certificates of Capacity to your VWA Agent as soon as you receive them from your worker. This allows your VWA Agent to keep track of how much you have paid your worker and to make any adjustments, as the level of weekly payments decreases after payments have been received for 13 weeks and 52 weeks.

### Pay any medical excess

You are liable for the employer excess (indexed annually) for the reasonable costs of treatment provided to your worker, unless you have the excess buyout option on your Victorian WorkCover Authority (VWA) Insurance. Keep copies of all invoices or receipts and forward them to your VWA Agent once you have paid the excess amount.

After this excess amount has been paid, your VWA Agent will coordinate directly with your worker and their healthcare providers to pay for treatment. If you receive any invoices or receipts from your worker forward them to your VWA Agent.

### Comply with your obligations

You are legally obliged to help an injured worker get back to work as soon as safely possible. Check that you are complying with your [return to work obligations](#).

### Tips and tools to help you through this stage

- If your worker needs time off work, ensure you stay in touch with them while they are away.
- Review all Certificate of Capacity to help you identify suitable duties.
- Keep copies of all invoices and receipts to demonstrate that the excess has been paid.
- Use this form to receive reimbursements directly into your bank account. Otherwise, you will be reimbursed via cheque.

What your worker should be doing

If the claim has been **accepted**, your worker should:

- Participate in return to work planning.
- Continue to give you Certificates of Capacity if they are unable to do their normal work.
- Request prior approval before accessing certain treatments – your VWA Agent can advise you on this.
- Send their treatment invoices or receipts to you until advised otherwise.
- Send their treatment invoices or receipts to their VWA Agent if advised to do so.
- Ask their treatment providers to bill their VWA Agent directly if possible.
- Be aware that they may be required to attend an Independent Medical Examination.

What your VWA Agent should be doing

If the claim has been **accepted**, your VWA Agent should:

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- Reimburse you for the weekly payments you make to your worker on receipt of medical certificates (once you have paid the first 10 days of incapacity).
- Reimburse your worker for the reasonable costs of treatment expenses they have paid.
- Pay reasonable treatment costs to healthcare providers directly for their services.
- Your VWA Agent may arrange an occupational rehabilitation provider to assist the worker to return to work.

### **If the claim has been rejected**

- Your worker may have the decision reviewed.

### **Continue to plan for your worker's return to work**

If your worker needs time off work, stay in touch with them while they are away and talk with them about what they *can* do at work rather than what they *can't*. It's important to plan for, and support, your worker's timely and safe return to work regardless of the outcome of their claim.

Your worker can use their accrued leave entitlements

Your worker is entitled to use any sick leave or other appropriate leave they have accrued to cover time off work.

### **Step Four: The next steps of the accepted claim**

Supporting an injured worker to return to safe work is good for business. It can help increase productivity and keep the cost of your premium down and benefits your worker by reducing the financial and emotional impacts on them and their family.

- Keep in regular contact with your worker while they are off work.
- Be aware of the change in weekly payments at 13 and 52 weeks.

**You should also continue to do the following, which you can read about in Step Three: After the claim has been assessed.**

- Forward any invoices or receipts for treatment that you receive directly to your VWA Agent.
- Pay your worker weekly payments for loss of income if they are unable to do their normal work.
- Forward any Certificates of Capacity to your VWA Agent.
- Continue to comply with your return to work obligations.
- Keep in regular contact with your worker while they are off work
  - Explore what your worker *can* do at work rather than what they *can't* and talk to them about it.
  - Be sure to review any Certificates of Capacity to help you identify suitable duties that your worker could do while they recover.

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- Be aware of weekly payment changes at 13 and 52 weeks
  - The amount of weekly payments you pay your worker will change at 13 weeks and again at 52 weeks.
  - Your VWA Agent will notify you before the changes to your worker's income compensation occur.

### **What your worker should be doing**

Your worker should:

- Be aware of the change in weekly payments at 13 and 52 weeks.
- Be aware of the change in your employer's obligations at 52 weeks.
- Participate in return to work planning.
- Give you up to date Certificates of Capacity while they are losing income.
- Request approval before accessing certain treatments.
- Give you or the VWA Agent invoices or receipts for treatment and travel expenses.
- Be aware that they may be required to attend an Independent Medical Examination.

### **What your VWA Agent should be doing**

Your VWA Agent should:

- Reimburse you for any weekly payments made to your worker for loss of income in accordance with valid Certificates of Capacity
- Reimburse your worker for the reasonable costs of treatment within 30 days from the date receipts are received and any reasonable costs of travel to and from treatment
- Pay the reasonable costs of treatment to health providers directly for their services within 30 days from the date invoices are received
- Arrange an occupational rehabilitation provider to assist the worker to return to work if required.

## **Workers: The Claims Process**

### **Step One: If you have sustained a work-related injury or illness**

#### **Seek appropriate treatment**

- The most important thing is your health and getting appropriate treatment.
- You should keep copies of all treatment invoices and receipts.

#### **Notify your employer in writing of your injury or illness**

Your injury or illness must be recorded in your workplace's register of injuries within 30 days of you first becoming aware of it or you may not be entitled to compensation. This should be done by you, or someone on your behalf.

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If you are unable to record your injury or illness in the register of injuries, you still need to notify your employer in writing within 30 days of becoming aware of your injury or illness.

You should also keep your employer informed about any time away from work that you may need, or any assistance that you need to return to safe work, which could include reduced hours or modifications to your duties or work area.

### **Decide whether you want to lodge a claim**

If you lose income or require treatment because of your injury and you wish to claim compensation from VWA, you need to make a claim.

### **Weekly Payments and Current Work Capacity**

#### **What entitlements does VWA pay?**

A worker must complete a VWA Worker's Claim Form if they require time off work or medical treatment because of a work-related injury or illness and want to claim VWA entitlements.

Workers may be eligible for compensation in the form of weekly payments as a result of a work-related injury.

#### **Weekly Payments**

VWA pays weekly payments until an injured worker can return to pre-injury work subject to certain statutory time limits. The payments are highest during the first 13 weeks. Most injured workers return to work well before this time.

Weekly payments are usually based on the average of the worker's ordinary earnings during the relevant period. These are referred to as pre-injury average weekly earnings (PIAWE).

The relevant period for the purposes of a worker's PIAWE is usually 52 weeks before the injury. If a worker has been with their employer for less than 52 weeks, the relevant period is the period of employment. Periods of unpaid leave and weeks not worked are excluded from the calculation of PIAWE.

PIAWE can include items such as:

- A worker's base rate of pay.
- Overtime and shift allowances for the first 52 weeks of weekly payments.
- Commissions.
- The monetary value of certain non-pecuniary benefits – use of a motor vehicle, residential accommodation, education fees and health insurance.
- The value of any part of a salary that a worker requested their employer to direct to another party – commonly referred to as a salary sacrifice.

Certain worker entitlements, such as annual leave or long service leave, may also impact weekly payments.

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### **Impact of a worker's capacity for work on weekly payments**

Weekly payments are also influenced by the worker's current work capacity. This establishes whether the worker can return to suitable employment, even if it is not the exact job he or she was doing before the injury or disease.

Weekly payments will be impacted depending on whether a worker has a current work capacity (they can do some work) or if they can't work at all.

\*See table following:

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The table below sets out these entitlements:

Number of weeks	Payments
First 13 weeks	95% of their PIAWE to a maximum of twice the State average weekly earnings - currently \$2,130* a week.
14 weeks to 130 weeks	80% of their PIAWE, to a maximum of twice the State average weekly earnings - currently \$2,130* a week.
After 130 weeks**	80% of their PIAWE to a maximum of twice the State average weekly earnings - currently \$2,130* a week, if they still cannot work and this is not likely to change. Payments may continue until retirement age unless there is a change in the worker's capacity.

### Some current work capacity

Number of weeks	Payments
First 13 weeks	<p>If they have returned to work - 95% of their PIAWE to a maximum of twice the State average weekly earnings - currently \$2,130* a week, less what they are currently earning a week.</p> <p>If they have not yet returned to work - 95% of their PIAWE, to a maximum of twice the State average weekly earnings - currently \$2,130* a week</p>
14 weeks to 130 weeks	<p>If they have returned to work - 80% of their PIAWE, to a maximum of twice the State average weekly earnings - currently \$2,130* a week, less 80% of what they are currently earning a week.</p> <p>If they have not returned to work - 80% of their PIAWE, to a maximum of twice the State average weekly earnings - currently \$2,130* a week.</p>

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<p>After 130 weeks Weekly payments can continue if:</p> <ol style="list-style-type: none"> <li>1. a worker has returned to work and is working at least 15 hours a week and earning \$184** or more a week; and</li> <li>2. because of their injury, they are likely to remain physically or mentally incapable of working beyond this level, in any job.</li> </ol>	<p>80% of their PIAWE, to a maximum of twice the State average weekly earnings - currently \$2,130* a week, less 80% of what they currently earning a week</p>
--	--

\* The maximum applies to those claims made on or after 5 April 2010. The figure is correct at 1 July 2014 - indexed annually.

\*\* Correct as at 1 July 2014 - indexed annually.

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### When no entitlement to compensation

#### Reasonable Management Action

There is no entitlement to compensation in respect of an injury to a worker if the injury is a mental injury caused wholly or predominantly by any one or more of the following:

- Management action taken on reasonable grounds and in a reasonable manner by or on behalf of the worker's employer.
- A decision of the worker's employer, on reasonable grounds, to take, or not to take, any management action.
- Any expectation by the worker that any management action would, or would not, be taken or any decision made to take, or not to take, any management action.

Management action, in relation to a worker, includes, but is not limited to, any one or more of the following:

- Appraisal of the worker's performance;
- Counselling of the worker;
- Suspension or stand-down of the worker's employment;
- Disciplinary action taken in respect of the worker's employment;
- Transfer of the worker's employment;
- Demotion, redeployment or retrenchment of the worker;
- Dismissal of the worker;
- Promotion of the worker;
- Reclassification of the worker's employment position;
- Provision of leave of absence to the worker;
- Provision to the worker of a benefit connected with the worker's employment;
- Training a worker in respect of the worker's employment;
- Investigation by the worker's employer of any alleged misconduct:
  - of the worker; or
  - of any other person relating to the employer's workforce in which the worker was involved or to which the worker was a witness;
- Communication in connection with an action mentioned in any of the above paragraphs.

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### Other

There is no entitlement to compensation in respect of the following injuries unless the worker's employment was a significant contributing factor to the injury:

- A heart attack injury or stroke injury;
- A disease contracted by a worker during the worker's employment (whether at, or away from, the place of employment);
- A recurrence, aggravation, acceleration, exacerbation or deterioration of any pre-existing injury or disease.
- If it is proved that an injury to a worker (whether intended to be inflicted) was deliberately or wilfully self-inflicted.
- Unless the injury results in death or severe injury, if it is proved that an injury to a worker is attributable to the worker's serious and wilful misconduct (including, but not limited to, being under the influence of intoxicating liquor or a drug).
- Where convicted for certain serious road traffic offences.

Circumstances in which weekly payments are reduced because of conviction for:

- Drink-driving offence.
- Drug-driving offence.

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### Rehabilitation & Return to Work

#### Policy

Our commitment to rehabilitation is as follows:

- To prevent injury and illness by providing a safe work environment for all employees.
- To ensure that returning to work as soon as possible after the injury is a normal practice and expectation.
- To ensure that occupational rehabilitation by accredited rehabilitation providers is available for injured employees who are expected to be off work for an extensive period. Occupational rehabilitation is to be commenced as soon as possible and is to be consistent with medical judgement.
- Consultation with employees to ensure that rehabilitation of any injured staff works effectively.

#### Responsibilities

Rehabilitation Coordinator: is responsible for maintaining the efficient operation of this policy and associated procedures and development of individual rehabilitation plans as the need arises.

Managers and supervisors: work in conjunction with the Return to Work Coordinator, assist returning employees by recognising their needs and work capacity and negotiating appropriate duties or performance expectations.

#### Preparation of a return to work plan

A return to work plan should be developed through consultation with the employee, the Human Resources Department and treating health practitioner or rehabilitation provider, where applicable. Rehabilitation could involve returning to the same job (with various support processes), modified normal duties, or redeployment to another suitable position.

Rehabilitation processes should be available to all employees returning to work from work-related injury or illness, regardless of the number of days absent.

The return to work obligations start even before the claim has been accepted by the VWA Agent (the Agent). Your return to work obligations commence on the first day you receive either:

- The injured worker's Certificate of Capacity;
- The injured worker's claim form;
- Notification from your VWA Agent that they have received either of these documents whichever is earlier.

#### Consultation

For an injured employee to return to work, he or she must be consulted in each and every stage of the rehabilitation process to ensure an appropriate recovery and return to work.

There are a number of things an injured employee can do to help in their return to work:

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- Ask their treating health practitioner to write details about what you can do on your Victorian WorkCover Authority (VWA) *Certificate of Capacity*.
- Talk to their employer about your progress and the parts of your job you think they can do. If they haven't heard from your employer, they may consider giving them a call.
- Ask their treating health practitioner and employer to talk to each other about the plans for your return to work and the suitable duties that are available.
- Choose to have someone represent, assist and support you in the return to work process (except a legal practitioner).

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## **EMERGENCY PLANNING**

### **Policy**

Where [TAFE] is the principal occupier of a building the following policy and procedures shall apply.

Where it is a shared accommodation situation, it will follow the procedures laid down by the principal occupier.

### **Purpose**

To provide the emergency control structure and directions which will prevent injury to personnel, visitors and neighbouring people/premises in the event of an emergency. The procedures also aim to minimise damage to the organisation's equipment, plant and installations.

### **Standard (including relevant legislation)**

The procedure is based on the Australian Standard for Emergency control organisation and procedures for buildings, the Dangerous Goods (Storage and Handling) Regulations 1989, Part 3, Div 2 and expert advice from the Fire Brigade.

### **Key principles**

The key principles of policy are:

- All risks will be continually monitored in order to minimise the potential of an emergency.
- The safety of personnel is foremost.
- Emergency plans will be formulated and reviewed in consultation with personnel, emergency service specialists and in line with statutory requirements.
- Plans should be simple but effective.
- A central control will always be available.
- Emergency control personnel will be trained in their appointed duties.
- All personnel will be regularly trained in appropriate response procedures.

Procedures should consider the existing emergency systems of each building such as fire protection equipment, communication systems, emergency lighting, exit doors and stairwells. They also consider staffing levels during normal working hours as well as afterhours activities and contacts.

Specific plans should be drawn up for emergencies created within the site and those caused by external sources.

Internal Emergencies covered by these procedures are:

- Fire.
- Explosion.
- Bomb Threat/suspect package.
- Medical emergency.

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- Hazardous material spill/toxic emissions.
- Security breach/civil disturbance.
- Motor vehicle accident.
- Other hazards specific to the organisation.

External Emergencies covered by these procedures are:

- Hazardous material spill/toxic emissions.
- Explosion.
- Civil disturbance.
- Storm.
- Flood.
- Bush fires.
- Motor vehicle accident.
- Aeroplane crash.

### Standard Requirements for Emergency Procedures

#### The alarm system

An alert signal is denoted by short repeating one tone blasts which means “remain at your work station”.

An action signal is a continuous repeating signal which means “move to the nearest designated assembly area”.

#### Raising the Alarm

There should be a system to allow people identifying an emergency to communicate this quickly to the emergency controller.

#### Standard Orders

Standard orders covering most emergencies eg fire, chemical etc will be posted in appropriate areas. It will contain brief instructions, emergency contact numbers and evacuation points.

#### Assembly points

These areas must be highlighted on floor plans for each area. Assembly points ensure wardens can take an initial count of personnel.

#### Evacuation points

These are highlighted on both any Standard orders and on the floor plans for each area. Evacuation to these points will only be undertaken upon the orders of a warden.

#### Controller & wardens

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The controller(s) and wardens will be listed on any Standing Orders and on noticeboards. During an emergency they will wear coloured helmets with Blue being the Incident Controller, Yellow being wardens and Red being Deputy Wardens.

### Emergency contacts

Emergency contact numbers for internal (wardens, controller, management, security) and external emergency liaison officers (police, fire brigade, ambulance) must be posted at each telephone.

### Training of Wardens

Employees required to act as emergency wardens shall be provided with appropriate training.

### Training of Employees

Employees shall be provided with emergency evacuation training every 4 months.

### First Aid

First aiders will wear identification always (same method used for wardens) and will wear a green helmet in an emergency.

### Floor plans

Floor plans will be posted in all areas indicating exits, assembly points, fire protection equipment, break glass alarms and any other relevant information eg. HAZCHEM, emergency showers etc.

### Checklists

Checklists listing personnel evacuated will be completed and checked.

### Procedure for Development of Emergency Plans

Each Department Manager in conjunction with the appropriate HSR shall identify possible emergency situations. A record of the assessment shall be kept.

The Manager of each Department shall develop emergency plans based on the Standard Requirements and using Standard Emergency Procedure.

Emergency Plans must be kept up to date and reviewed every 6 months, by the Manager of the relevant Department.

Emergency Plans shall be verified by competent experts.

Emergency Information to be displayed on Emergency Information Notice Board in accordance with procedure.

Equipment provided for Emergency Procedures shall be checked monthly as part of the monthly hazard inspection.

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### Emergency Contact Procedure

#### Codes

Please Note: It is the Chief Emergency Warden who instigates all codes

#### **Code Red** – Fire or Smoke

1. Call “000”.
2. Contact your Manager - The Manager will be responsible for contacting the Chief Executive Officer as required.

#### **Code Orange** - Evacuation

1. Call “000”.
2. Contact your Manager - The Manager will be responsible for contacting the Chief Executive Officer as required

#### **Code Purple** – Bomb Threat

1. Call “000”.
2. Contact your Manager - The Manager will be responsible for contacting the Chief Executive Officer as required

#### **Code Yellow** – Internal Emergency

##### **Gas Leak**

1. Isolate the leak
2. If unable to isolate the leak call “000”.
3. Call Maintenance - Maintenance will be responsible for contacting the Manager. The Manager will be responsible for contacting the Chief Executive Officer as required.

##### **Explosion, chemical spill, power failure**

1. Call “000”
2. Call Maintenance - Maintenance will be responsible for contacting the Manager. The Manager will be responsible for contacting the Chief Executive Officer as required.

#### **Code Black** – Police Attendance

1. Call “000”.
2. Contact your Manager - The Manager will be responsible for contacting the Chief Executive Officer as required.

#### **Code Brown** – External Emergency

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1. Contact Chief Executive Officer for advice.

### **Responsibilities:**

#### **Chief Emergency Warden**

The Chief Emergency Warden has the following responsibilities:

- Be fully conversant with the responsibilities and procedures of the role of Chief Emergency Warden.
- Attend the main Fire Indicator Panel when there is an alarm raised, ascertain the nature and location of the emergency and dispatch the Deputy Emergency Warden to investigate.
- Ensure the Deputy Emergency Warden is aware of their role in the incident.
- Instigate the relevant codes as required.
- Initiate the appropriate responses.
- Ensure 000 and appropriate Emergency Services have been notified.
- When sure of the situation acknowledge the alarm and if it is a false alarm silence tones.
- Coordinate and direct other staff according to the Emergency Procedure Manual to ensure the safety of staff, clients, volunteers and visitors.
- Handover and liaise with attending Emergency Services and provide all necessary assistance.
- Follow the directions of the Incident Control Officer (Emergency Service).
- Maintain calm.
- Initiate and control an orderly rollback and evacuation from your building (if required) to a predetermined safe area of assembly.
- To be able to operate any first attack firefighting equipment such as portable fire extinguishers and fire blankets (if safe to do so).
- Maintain a record of the event.
- Attend mandatory training including emergencies, evacuation, firefighting equipment.

#### **Deputy Emergency Warden**

When nominated to the position by the Chief Emergency Warden the Deputy Emergency Warden has the following responsibilities:

- The Deputy Emergency Warden must maintain ongoing contact with the Chief Emergency Warden and others.
- Accept and carry out the instructions of the Chief Emergency Warden.
- Brief the responding Emergency Services if you are the first person to meet them.
- To be able to operate any first attack firefighting equipment such as portable fire extinguishers and fire blankets (if safe to do so).
- Attend mandatory training.

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### Maintenance Department

It is the responsibility of the Maintenance Department to ensure:

- There is no accumulation of rubbish which may increase the danger of a fire occurring (including such things as oil-soaked rags etc).
- The correct storage of flammable liquids.
- There is no furniture, equipment or any other item impeding access to fire exits.
- There are no missing, unserviceable or defective fire extinguishers.
- There are no defective PA system or early warning evacuation system.
- Fire and smoke doors are kept open and that the self-closing mechanism is in working order (the door should close automatically) and that they are not wedged open.
- All passages are clear from obstruction.
- Fire equipment is checked as scheduled.
- Electrical checks are completed as scheduled.
- Ensure all updated contact lists are included in the Emergency Procedure Manual.
- All storage areas are maintained in accordance with Building Fire Regulations. There must be a clear space of not less than 500 mm below the level of the sprinkler deflector. Heat and smoke detectors should also maintain a similar distance below them.
- Flammable liquids in office areas should be limited to very minimal quantities and only be allowed under special circumstances.
- No vehicle owners carry out repairs to their vehicles on the premises.

### All staff

It is the responsibility of all staff to ensure:

- They observe the greatest possible care when using matches, portable heaters, electrical appliances or any other possible sources of ignition
- Their immediate work location is maintained in a tidy manner
- There is no furniture, equipment or any other item impeding access to fire exits
- Ensure that fire and smoke doors are not wedged open
- All passages are clear from obstruction
- Ensure there is no accumulation of rubbish and if accumulated rubbish is present they contact Maintenance to remove it
- Notify Maintenance of any fire risk

### Mandatory Emergency and Evacuation Training

Employees and Volunteers of [TAFE] will be given adequate instructions in what to do in the event of a fire or other emergency.

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Employees and Volunteers of [TAFE] will be given

- Instruction at orientation.
- Annual evacuation and fire training, including the use of extinguishers.
- Ongoing Emergency Warden training.

### Code Red – Fire/Smoke

#### Discovery or suspicion of a fire:

- Attempt to rescue if safe to do so
- Close doors to isolate smoke
- Warn others – DO NOT SHOUT
- Action – break the glass alarm
- Advise the Chief Emergency Warden of the situation, describe exact location etc. The Chief Emergency Warden will initiate “CODE RED”
- Attempt to extinguish the fire only if safe to do so and you have been trained
- Follow the instructions of the Chief Emergency Warden until Emergency Services arrive then follow the instructions of the Incident Control Officer (Emergency Service)
- Promptly, safely and in an orderly manner commence roll back or evacuation of clients, volunteers and visitors if required

**Caution:** Do not attempt to use an extinguisher unless you have been trained

### Definitions Minor and Major Fires

#### Minor Fire

A fire may be deemed minor if

- The fire is not severe or the smoke widespread
- No life-threatening conditions prevail
- The buildings sprinkler system is not operating (if installed)
- It is safe to commence an attack on the fire with portable firefighting equipment installed in the building
- In the event of a minor fire no evacuation is initially required

#### Major Fire

A fire may be deemed major if any of the above occurs:

- In the event of a major fire commence roll back procedure immediately and prepare for evacuation.
- Evacuate when necessary on instruction from the Incident Control Officer (Emergency Services) or the Chief Emergency Warden.

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### Fire Prevention Management

#### Kitchen and Food Preparation Areas

Kitchen areas are high risk as heat and flame used in food preparation may cause fire. These things should be considered:

- All areas must be kept clean and tidy.
- Any oils, spirits or fats must be stored away from possible ignition sources.
- Kitchen staff must be aware of the extra dangers and know where the extinguishers are and how to operate them.
- Ensure fire equipment is kept in its correct location.

#### Oven Fires

In the event of an oven fire you will:

- Raise the alarm.
- Ensure the oven door is closed.
- Turn off the power (if safe to do so).
- Obtain a Dry Chemical Extinguisher.
- For oven with pull down door - Stay at the side of the oven, open door, extinguish and shut door.
- For oven with side opening door - Keep below top of door, open door, extinguish and shut door.

#### Range Top Fires

- In the event of a range top fire:
- Raise the alarm.
- Turn off the power (if safe to do so).
- Obtain a Dry Chemical Extinguisher.
- Approach fire discharging extinguisher (if safe to do so).

#### Deep Fat Fryer Fires

In the event of a deep fat fryer fire:

- Raise the alarm.
- Turn off the power (if safe to do so).
- Slide a close-fitting metal lid or a correctly used Fire Blanket over the vat.
- Obtain a Wet Chemical, Co2 or Dry Chemical (BE only) Powder Extinguisher.

A Dry Chemical Powder Extinguisher may be marked BE or ABE. BE refers to extinguishers which are effective against Class B, C, E and F (limited) fires. ABE extinguishers are effective against Class A, B, C and E fires **but not** against Class F fires (B = Flammable, combustible liquids E = Electrical)

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- Approach fire discharging extinguisher (if safe to do so)

Caution: Do not use a hose reel or water Extinguisher.

When operating Extinguishers on a deep fat fryer fires, initially stand well back because of flare up






























































### Fire Fighting Equipment

#### Extinguishers

All employees should be familiar with the types of fire extinguishers, their uses and where they are in their immediate work location.

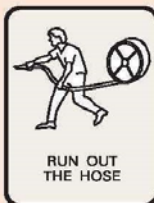
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# FIRE EXTINGUISHER CHART

FIRE EQUIPMENT USAGE CHART						
 YES  NO <b>TYPE OF EXTINGUISHER</b> <small>Colour scheme - AS 2444</small> <small>Pre 1987 Post 1987</small>	<b>A</b> Wood, Paper & Plastic 	<b>B</b> Flammable & Combustible Liquids 	<b>C</b> Flammable Gases 	<b>E</b> Energised Electrical Equipment 	<b>F</b> Cooking Oils & Fats 	<small>NOTES: *Limited indicates that the extinguisher is not the agent of choice for the class of fire, but that it will have limited extinguishing capability. Class D fires (involving combustible metals) use only special purpose extinguishers and seek expert advice. COMMENTS: (Refer Appendix A of AS 2444)</small>
 Powder ABE						Special Powders are available specifically for various types of metal fires. Seek expert advice.
 Powder BE						Special Powders are available specifically for various types of metal fires. Seek expert advice.
 Carbon Dioxide (CO <sub>2</sub> )						Generally not suitable for outdoor fires. Suitable only for small fires.
 Water						Dangerous if used on flammable liquid, energised electrical equipment and cooking oil/fat fires.
 Foam						Dangerous if used on energised electrical equipment.
 Wet Chemical						Dangerous if used on energised electrical equipment.
 Vapourising Liquid						Check the characteristics of the specific extinguisher.
 Fire Blanket						Use blanket to wrap around a human torch. Ensure you replace the blanket with a new one after use.
 Fire Hose Reel						Ensure you maintain a path of egress between you and the nearest exit.

## USING FIRE HOSE REELS

1. Turn on the stop valve
2. Run out the length of the hose as required
3. Turn on the water at the nozzle, direct the stream at base of fire
4. Ensure you leave a direct egress path between you and the nearest exit door/egress route.



NB: Fire hose reels should only be used if safe to do so

## USING FIRE EXTINGUISHERS

1. Ensure that you use the correct extinguisher
2. Always keep an emergency exit behind you (away from the fire)
3. Stay low to avoid the effects of heat and smoke
4. Direct the extinguisher stream at the base of the flames
5. Move stream in a side to side sweeping motion
6. If the fire gets to the point where you are no longer able to control it, retreat and close the doors



NB: Fire extinguishers should only be used if safe to do so

WHEN USING AN EXTINGUISHER...

**REMEMBER**  
**P.A.S.S.**

**P** PULL the pin at the top of the extinguisher, ensuring safety seal breaks away.

**A** AIM the nozzle towards the ground.

**S** SQUEEZE the handle to discharge the extinguisher and test functionality and operating range.

**S** SWEEP from side to side to completely extinguish the fire.

### Acknowledging an Alarm Procedure

[INSERT]

#### Code Orange - Evacuation

- Report to the Chief Emergency Warden.
- Await instructions.
- Prepare staff.
- Close doors behind you – leave the lights on.
- Do not re-enter danger areas.

#### FOR BUSH FIRE EVACUATION REFER TO CODE BROWN

#### Designated Assembly Areas

[INSERT]

The designated evacuation assembly area for each building is shown on their respective building plans.

Under certain conditions an alternative emergency assembly area may be required to ensure the people are not situated in an unsafe area e.g. falling debris, toxic fumes etc.

The alternative should be adequately external to the property e.g. across the road  
XXXXXXXXXXXXXXXXXX.

**Caution:** It is important to ensure Emergency Service access to the site is not impeded or blocked

#### Persons refusing to comply with Warden's Directions

Should a person refuse to comply with the direction given by a warden:

- Ensure the person has been clearly advised they are required to evacuate the building. Do not waste large amounts of time on someone refusing to leave as this time is better used helping persons who want help.
- Notify the Chief Emergency Warden who will advise the Incident Control Officer (Emergency Service) who may take the necessary action under law to remove the person.

#### Code Purple – Bomb Threat

- Report bomb threat extortion, suspicious packages.
- If threat made by phone don't hang up.
- Report to Chief Emergency Warden.
- Turn off mobile phones, pagers in threat area only.
- Do not touch any unidentified objects.

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### Bomb Threat Procedure

On receipt of a threat:

- Remain calm.
- Do not use mobile phones or DECT phones for communication. Use landline phones and PA intercom only.
- DO NOT INTERRUPT – Do not hang up the phone.
- Gather information from the caller. Write this down if possible.
- Listen carefully for any background noises, speech mannerisms, accents etc that might give a clue to the age, sex and location of the caller.
- Do not discuss the call with other occupants of the building until the Chief Emergency Warden has been advised.
- Advise Chief Emergency Warden who will initiate “Code Purple” and contact police immediately.
- Complete the Bomb Threat Checklist and give these to the Chief Emergency Warden.
- Initiate a search of the local area (upon police request) to assist Emergency Response team upon arrival. Search in the following order:
  1. Public areas including reception areas, waiting rooms, toilets, hose reel cupboards
  2. Other areas including staff rooms, laundries, boiler room, consulting rooms
  3. Client rooms
- If you find something suspicious  
DON'T TOUCH IT!  
  
DON'T MOVE IT!
- Follow evacuation procedure CODE ORANGE but leave doors open.

**NOTE: REMEMBER YOU ARE LOOKING FOR SOMETHING THAT DOES NOT BELONG WHERE IT IS AND DOES NOT FIT INTO THE SURROUNDINGS. IF YOU FIND ANYTHING THAT AROUSES SUSPICION**

DON'T TOUCH IT!

DON'T MOVE IT!

### Code Yellow – Internal Emergency

Explosion, Gas Leak, Chemical Spill, Power Failure

- Remove persons to safety.
- Give exact location, type of incident, persons involved and type of assistance “000”.
- Report to the Chief Emergency Warden.

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### **CODE BLACK - Police Attendance**

Unauthorized Entry, Personal Threat

- State type of incident to “000”.
- Hand over valuable, drugs or cash if demanded.
- Remove self and others from harm.
- Report to Chief Emergency Warden.

### **Code Black Procedure**

- Remain calm.
- REMEMBER THAT YOUR OWN SAFETY IS PARAMOUNT.
- Converse and answer questions courteously.
- Hand over any valuables, drugs or cash if ordered.
- Take note of appearance, clothing, age and identifying marks.
- If assailant flees, take note of routes taken, vehicle details and other pertinent information.
- Advise Chief Emergency Warden of situation and details of incident. The Chief Emergency Warden will initiate “Code Black”.
- Document details of the incident immediately.

### **Code Brown – External Emergency**

- Report to Chief Emergency Warden.
- Await further instruction.

### **External Disaster**

In the case of a State Disaster being activated under State Emergency Management Procedures [TAFE] may receive a request for accommodation or other special assistance.

Questions which must be asked by the person who receives the assistance call.

- Nature of assistance required.
- Name of the person making the request and their authority to make such a request.
- Type and extent of assistance required.
- Follow up contact details to be used by the [TAFE] management. Advise [TAFE] management will call back to confirm details of the request and arrange co-ordination of assistance.
- Contact CEO (1st option) or Manager (2nd option).

### **Bush Fire Evacuation Procedure**

In the case that evacuation is required due to bushfire threat contact will be made by the Municipal Emergency Response Coordinator (or delegate).

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If any staff have homes at risk, they are to notify the Chief Emergency Warden and may leave if safe

The Chief Emergency Warden instigates the Code Orange and delegates the following

- Delegate someone to ring all staff on the list (red folder in the evacuation pack) to enlist help.
- Liaise with the External Emergency Response Team.

The External Emergency Response Team is comprised of the following individuals:

- The CEO.
- The maintenance staff.

In the event of a bush fire threat the following must be done:

- The CEO or delegate monitors the threat to identify imminent risk.
- The CEO or delegate liaises with relevant organisations.

If the threat becomes an imminent risk the External Emergency Response Team does the following:

- Dons their protective gear (located in the maintenance department).
- Roll out all the canvas hoses.
- Deploy to areas under immediate threat and wet down the area, extinguish spot fires or embers.
- Liaise with Chief Emergency Wardens (CEWs)
- DECT phone.
- Mobile.
- Remain in the areas under immediate threat until the threat has eased.
- Chief Emergency Warden
- Ensure the inside of the building is systematically patrolled to detect any internal fires.
- Inform the External Emergency Response Team of any internal issues until the external service arrives (CFA) and the Incident Control Officer (ICO) assumes responsibility for managing the situation.

The ICO stands down External Emergency Response Team.

At the completion of the Code Brown the External Emergency Response Team does the following:

- Completes any relevant documentation.
- Reviews the incident and recommends any improvements to this procedure.

### After Hours

- The CEO can be contacted by mobile XXXXXXXXX
- Maintenance can be contacted on the A.H. mobile number (XXXXXXX)

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## **ENVIRONMENTAL**

### **Environmental Policy (Template)**

[TAFE] is committed to providing a quality service in a manner that ensures a safe and healthy workplace for our employees and minimises our potential impact on the environment. We will operate in compliance with all relevant environmental legislation and strive to use pollution prevention and environmental best practices.

[TAFE] will endeavour to:

- Integrate the consideration of environmental concerns and impacts into all of our decision making and activities
- Promote environmental awareness among our employees and contractors; encouraging them to work in an environmentally responsible manner
- Train, educate and inform our employees about environmental issues relating to their work
- Reduce waste and pollution through re-use and recycling and by purchasing recycled, recyclable or re-furnished products and materials where these alternatives are available, economical and suitable
- Promote efficient use of materials and resources throughout our company including water, electricity, raw materials and other resources, particularly those that are non-renewable
- Avoid unnecessary use of hazardous materials and products, seek substitutions when feasible, and take all reasonable steps to protect human health and the environment when such materials must be used, stored and disposed of
- If required by legislation or where significant health, safety or environmental hazards exist, develop and maintain appropriate emergency and spill response programmes
- Communicate our environmental commitment to clients, customers and the public and encourage them to support it
- Strive to continually improve our environmental performance and minimise the social impact and damage of activities by periodically reviewing our environmental policy in light of our current and planned future activities

This policy is subject to periodic review and made available to our staff, contractors and other stakeholders through induction, display at worksites, as well on our website.

### **Signed & Dated**

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