



## Personnel Code of Conduct

- **Statement of Purpose:** The Love Mercy Foundation (LMF) aims to create a working environment that is free from unacceptable behaviours including exploitation, abuse, discrimination, harassment and bullying and where each person is treated with courtesy, dignity and respect. LMF aims to resolve any issue promptly, as and when it arises and to resolve complaints in a fair and timely manner.

The following policy applies to:

- Love Mercy Foundation Ltd staff (both in Australia and Uganda).
- Love Mercy Foundation Ltd board members (both in Australia and Uganda).
- Love Mercy Foundation Ltd volunteers and interns (both in Australia and Uganda).
- Partner organisations.

This policy is to be read and applied in conjunction with all other LMF policies and procedures.

**Last reviewed October 2020**

## **1. General responsibilities**

LMF is founded on the following scripture:

*“And what does the LORD require of you? To act justly and to love mercy and to walk humbly with your God.” – Micah 6:8*

Jesus commands each of us to love our neighbour. It is therefore the responsibility of all LMF board members, staff and volunteers to serve others in the context of healthy relationships by:

- Loving and caring for one another, paying attention to the specific needs of others;
- Treating others with dignity, respect and honesty;
- Teaching and exercising authority respectfully;
- Upholding confidential information;
- Cooperating with others and valuing their opinions;
- Ensuring and maintaining integrity by creating systems for accountability and transparency;
- Obeying the law.

All LMF board members, staff, volunteers, partners and project visitors are expected to keep to this Code of Conduct.

## **2. Definitions of unacceptable behaviours**

For the purposes of this Code, the following unacceptable behaviours are defined to mean:

- 1.1. Exploitation - any actual or attempted abuse of a position of vulnerability, discrepancy in power, or trust for the benefit of another person.
- 1.2. Abuse - the actual or threatened physical intrusion of an individual's person, whether by force or under unequal or coercive conditions.
- 1.3. Unlawful discrimination - the less favourable treatment of a person on the basis of:
  - status (gender, race, religion, age, disability, gender identity or preference, political opinion etc)
  - a characteristic generally pertaining to or generally imputed to someone of that status
  - a condition or requirement that is generally unable to be met by someone of that status when compared to others not of that status.
- 1.4. Direct discrimination - occurs when someone is treated less favourably because of his or her status or characteristic or because the person's status prevents the person from meeting a condition or standard.
- 1.5. Indirect discrimination - occurs when a policy or practice that appears to be fair nevertheless results in less favorable treatment for an individual or a group.
- 1.6. Vilification - publicly encouraging or inciting hatred, ill feeling or severe contempt for someone or a group of people on the basis of race or certain other personal characteristics.
- 1.7. Victimization - treating someone less favourably because the person has made a complaint or has taken action against LMF under relevant legislation.
- 1.8. Harassment - may consist of an isolated incident or a series of incidents or an ongoing pattern of behaviour. Harassment interferes with a person's work performance by creating an intimidating or hostile work environment. It is not always intended and often happens when power is used wrongly. It may be overt or subtle, direct or indirect (for instance where a hostile feeling or environment is created without any direct attacks being made on a person).
- 1.9. Sexual harassment - unwelcome sexual advances, requests for sexual contact, and oral, written or physical conduct of a sexual nature in a situation where submission to, or rejection of, such advances, requests or conduct is explicitly or implicitly a term or condition affecting employment; and/or when such advances, requests or conduct have a detrimental effect on an individual's work. Sexual Harassment is unlawful and prohibited under the Sex Discrimination Act 1984.

- 1.10. Bullying at work - occurs where an individual or a group repeatedly behaves unreasonably towards the worker, or a group of workers of which the worker is a member; and that behaviour creates a risk to health and safety. Reasonable management action carried out in a reasonable manner is not bullying.
- 1.11. Financial impropriety - illegal or improper behaviour in association with the handling of funds.
- 1.12. Fraud - wrongful or criminal deception intended to result in financial or personal gain.
- 1.13. Corruption - dishonest or fraudulent conduct by those in power for private gain. This includes financial gain but may take non-financial forms such as diversion of aid and assistance to non - target groups, allocation of resources in return for sexual favours, preferential treatment for family and friends, and coercion and intimidation of staff or beneficiaries to ignore or participate in corruption.
- 1.14. Bribery - the offering, promising, giving, accepting or soliciting of an advantage as an inducement for an action which is illegal or a breach of trust.
- 1.15. *With regard to Child Safeguarding and working with children, follow the safeguarding behaviours articulated in Love Mercy Foundation's Child Protection Code of Conduct. These include not using inappropriate language or communications; not providing alcohol and drugs; not giving gifts to children (outside of Love Mercy Foundation approved programs); not having inappropriate physical contact with children; not having any sexual relations with children or sexual exploitation; not utilising child labour; not taking of photos or other images of children (outside of approved Love Mercy Foundation photos or images), and ensuring all have a responsibility to report any child safeguarding concerns*
- 1.16. Transactional sex with primary stakeholders, this includes any form of sexual activity in exchange for goods or services, money, employment or preferential treatment.

### 3. LMF legal obligations

LMF is committed to complying with all relevant legal obligations and responsibilities including:

- 1.1. The responsibility to take all reasonable steps to prevent the occurrence of unacceptable behaviours in the workplace;
- 1.2. In accordance with Australian Occupational/Work Health and Safety legislation, the responsibility to protect the health, safety and welfare of employees and others in the workplace (see our [WHS Policy here](#)); and

- 1.3. The obligation to implement adequate systems and controls in relation to financial management.

#### **4. Unacceptable behaviours prohibited**

1.1. Certain behaviours can have an adverse effect on the efficiency and effectiveness of LMF as an organisation but also on the wellbeing of the individuals involved. In order to mitigate any adverse effects on LMF or its board, staff or volunteers, the following behaviours are strictly prohibited:

- Exploitation and abuse (including those of a sexual nature);
- Discrimination (in both direct and indirect forms);
- Vilification;
- Victimisation;
- Harassment (including sexual harassment);
- Bullying;
- Financial impropriety (including fraud, corruption and bribery).

#### **5. Management responsibilities**

It is the responsibility of LMF management (including board members and management staff) to:

- 1.1. set an example by demonstrating appropriate behaviour at all times;
- 1.2. take an active role in preventing unacceptable workplace behaviours at LMF;
- 1.3. be alert to incidents that may constitute unacceptable workplace behaviours and act to prevent their escalation;
- 1.4. establish an open relationship with employees and volunteers to support them in feeling comfortable to report incidents of unacceptable workplace behaviours; and
- 1.5. continuously monitor the workplace to prevent unacceptable workplace behaviours.

#### **6. Staff and volunteer obligations**

All employees and volunteers of LMF are legally obliged not to engage in or encourage discriminatory behaviour, harassment or bullying towards fellow employees, volunteers,

managers, donors, contractors or any other person with whom they come into contact through work.

To engage in such behaviours on the grounds set out in sections 6.1, 6.2 and 6.3 below is an offence under various pieces of Commonwealth anti-discrimination and workplace legislation<sup>1</sup> and will not be tolerated in any form by LMF.

## 1.1. Discrimination

LMF will not tolerate discrimination in any form. The table below summarises the broad grounds on which discrimination is prohibited both at LMF workplaces or when employees or volunteers represent the organisation in any form at workplace functions or events.

### 1.1.1. Grounds on which discrimination is prohibited

Gender	Marital or Relationship status	Race
Disability	Age	Family status / responsibility
Career status	Parental status	Physical features
Sexuality	Breastfeeding	Industrial activity
Gender Identity, Transgender or Intersex	Pregnancy and potential pregnancy	Lawful religious or political activity or belief
Sexual orientation	Medical and criminal record	

LMF is an equal opportunity employer and is committed to ensuring that staff are employed on the basis of merit and that all reasonable efforts are made to avoid any form of discrimination.

## 1.2. Harassment

Harassment, as defined in section 2.8 of this Policy, can take many forms, including oral, written and physical harassment and may be described as:

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<sup>1</sup> For relevant Acts at both the Federal and State level that relate to workplace discrimination, harassment or bullying please refer to page 7 of this policy.

- any type of behaviour that is unwelcome and that offends, embarrasses or intimidates another person;
- behaviour of a sexual nature that is not welcomed or reciprocated;
- deliberate or unintentional, obvious or subtle;
- arising from individual or group behaviour;
- initiated by anyone at LMF, including employees, volunteers, contractors, clients or visitors to our workplace;
- directed to anyone at LMF, including employees, volunteers, contractors, clients or visitors to our workplace;
- occurring during any work activity, work organised social activity, and/or any work outside the workplace itself.

#### 1.1.1. Behaviour that does not constitute harassment

It is not harassment if the interaction is based on mutual respect, attraction or friendship; if the behaviour is invited, consensual or reciprocated; or if the consent or participation is not obtained by fear, intimidation, threats or coercion.

### 1.3. Bullying

Bullying, as defined in section 2.10 of this policy, is ongoing and repeated conduct that treats a person less favourably than others and that may be regarded as unreasonable and inappropriate workplace behaviour. The behaviour is unwelcome and unsolicited, is usually not reciprocated, and has an element of covert and malicious intent. Some examples of bullying include:

- shouting, oral or written abuse, insults, intimidating language, sarcasm or innuendo;
- constant criticism, denigration or demeaning conduct, either privately or publicly;
- isolating and excluding a person from various work activities or groups;
- damaging or interfering with a person's property or work equipment;
- threats of violence or actual incidents of violence;
- regular threats of dismissal;
- attempts to make competent employees appear incompetent;
- repeated practical jokes, taunts, ridicule or humiliation.

#### 1.1.1. Behaviour that does not constitute bullying

Reasonable management action carried out in a reasonable manner does not constitute bullying. Reasonable actions taken by LMF in relation to transfer, demotion, promotion, performance appraisal, discipline, retrenchment, dismissal and the provision of benefits do not constitute bullying.

## 7. Reporting instances of unacceptable behaviour

- 7.1 Refer to the **Complaints Handling Policy** for relevant complaints handling mechanism.
- 7.2 All board members, staff and volunteers are encouraged to make complaints or report misconduct they suspect or witness occurring within LMF. Internal complaints will be dealt with in the upmost confidence and complainants will not be punished or adversely treated for making a complaint against LMF personnel or organisational practices or procedures.
- 7.3 Where appropriate, LMF encourages all board members, employees and volunteers to endeavour to resolve issues directly and informally through a process of discussion and conciliation. This process may involve seeking advice from others including a board member or trusted colleague. LMF however strongly discourages behaviour which will escalate the issue such as gossiping about or ignoring the person concerned.
- 7.4 In the event that informal options of resolution have been exhausted or are not appropriate in the circumstances (for example sexual harassment or financial impropriety), LMF encourages the submission of a formal complaint in accordance with its **Complaint Handling Policy**.
- 7.5 All formal complaints made, particularly those involving the mistreatment of children, will be dealt with in a timely and respectful manner.
- 7.6 Where a criminal offence has been committed, the misconduct is to be reported to the police or any other relevant authority.

## **8. Vicarious liability for discrimination or harassment**

Under Australian federal law an employer, regardless of their size, may be legally responsible for discrimination and harassment which occurs in the workplace or in connection with a person's employment unless it can be shown that all reasonable steps have been taken to reduce this liability.



## Relevant Anti-Discrimination, Harassment and Bullying Legislation

### Federal:

- Fair Work Act 2009 and The Fair Work Amendment Act 2013
- Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013 (Cth) (SDA Amendment Act) inserts the new grounds into the Sex Discrimination Act 1984 (Cth) (SDA)
- Australian Human Rights Commission Act 1986 (Cth)
- Sex Discrimination Act 1984
- Racial Discrimination Act 1975
- Disability Discrimination Act 1992
- Age Discrimination Act 2004
- Criminal and Common Law

### State:

- Anti-Discrimination Act 1977 (NSW)
- Equal Opportunity Act 1995 (Vic)
- Anti-Discrimination Act 1991 (Qld)
- Equal Opportunity Act 1984 (SA)
- Equal Opportunity Act 1984 (WA)
- Anti-Discrimination Act 1998 (Tas)
- Discrimination Act 1991 (ACT)
- Anti-Discrimination Act 1992 (NT)
- Occupational/Work Health and Safety Legislation
- Workers Compensation Legislation