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# Ethical Behaviour Policy

## 1. THE POLICY

- 1.1 The objective of this policy is to promote ethical interactions between members of the Pacific Edge community and to provide an environment of safety, respect and dignity so members can participate fully in all aspects of Pacific Edge life.
- 1.2 General principles of the Policy are:
- a. That all members of the Pacific Edge community will be courteous, honest, fair, timely and ethical in their dealings with one another;
  - b. That services, benefits, opportunities and facilities provided by Pacific Edge will be offered without discrimination, as defined in the Policy
  - c. Unethical behavior includes, but is not limited to, sexual harassment, racial harassment, discrimination, personal harassment and bullying, the abuse of supervisory authority and failing to declare or manage a conflict of interest. This kind of conduct is described in **Appendix 2: Breaches of General Principles**.
  - d. Pacific Edge is committed to ensuring the right to institute or participate in any process under this policy and to resolving any complaint in a timely and confidential manner.

Definitions relating to the Policy may be found in **Appendix 1**.

## 2. PROCESSES FOR ACTION UNDER THE POLICY

### Informal Process

- 2.1. Pacific Edge supports and encourages the use of informal processes to resolve concerns wherever that is appropriate. Informal processes include the following options:
- a. Individuals addressing an issue themselves (with or without support);
  - b. Management or third-party involvement; and
  - c. Mediation.

More details about these processes may be found in [Appendix 3](#).

### **Advice and Support**

2.2 Where a member of the Pacific Edge community has concerns about behavior that may be inconsistent with the Ethical Behavior Policy, the following are available to discuss the avenues for resolution of the concern and/or to support those involved through the process:

- a. A contact person;
- b. The Pacific Edge Mediator;
- c. A person's manager / Head of Department or senior colleague; or
- d. Human Resources;

More details may be found in [Appendix 3](#).

### **Procedural Advice**

2.3 If there is uncertainty about the process to be followed, the Pacific Edge HR Manager may be contacted for advice. More details and procedural requirements may be found in [Appendix 4: Formal Complaints](#).

## **3. ADDITIONAL PROCESSES**

3.1 Depending on the nature of the issue other options are available, including the following:

- a. In the case of alleged criminal behavior, a complaint may be made to the Police.
- b. In the case of alleged discrimination, sexual harassment, or racial harassment a complaint may be made to the Human Rights Commission under the Human Rights Act 2003.
- c. In the case of employment-related problems a staff member may take action under their employment agreement or the Employment Relations Act 2000.

## **4. PROTECTION OF PARTIES TO A COMPLAINT**

4.1 When someone has either made a complaint or been the subject of a complaint they must use all reasonable efforts to avoid action which actually or potentially causes disadvantage to or creates a hostile environment for the other person.

4.2 If someone fears disadvantage or hostility they may:

- a. Request their immediate supervisor to put in place appropriate arrangements to provide a safe working environment for all parties. If the supervisor is the person complained about, a request should be made to that person's immediate HOD or the Human Resources Manager; or

- b. Approach a union or other support network to facilitate the putting in place of an appropriate arrangement to provide a safe working environment for all parties;

**5. CONFIDENTIALITY**

- 5.1 Subject to the requirements of the investigation or any legal requirements, everyone involved in a formal investigation or informal process has:
  - a. The right to have information they disclose kept confidential.
  - b. The duty to respect the rights of others to the maintenance of confidence.
  - c. The right to have any limits of confidentiality explained to them.

**6. SUPPORT PERSONS**

- 6.1 Anyone has the right to be accompanied by a support person at any stage of the processes under this policy.

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## APPENDIX 1: DEFINITIONS

For the purpose of the Policy, the following definitions will apply:

A **Complaint** is a request for formal action.

A **Contact Person** is a staff member appointed by the Ethical Behavior Committee to advise people with concerns about their options.

A **Manager** means the appropriate manager of the relevant workplace including the HR Manager/HOD/COO.

**Mediation** refers to the process in which an acceptable third person assists participants with concerns or disagreements to reach a mutually acceptable solution.

**Mediator** is the Pacific Edge Mediator.

A **Member** of the Pacific Edge community is a member of the general staff employed by PE or its subsidiaries, whether employed on a permanent, fixed-term, full-time, part-time or casual basis;

A **Party** is a person or a group of people bringing or responding to a formal complaint.

A **Person Complained About** is a member of the Pacific Edge community against whom a formal complaint has been made under this Policy.

A **Person Complaining** is an individual member of the Pacific Edge community, or a group of members of that community, taking a formal complaint under the Policy.

A **Representative** is anybody nominated by a party (e.g. lawyer, union representative, or other) who has delegated authority to speak, discuss, and negotiate on behalf of the party.

A **Support Person** is someone who provides personal support to a person with a concern or in a dispute but is not a representative for that person.

A **Supervisor** is a person who has direction over another. Members of the Pacific Edge community will in some instances be a supervisor in one-capacity and take directions in another, or may have different supervisors depending on the situation.

The **Pacific Edge Mediator** is a staff member appointed to mediate by Pacific Edge.

## APPENDIX 2: BREACHES OF GENERAL PRINCIPLES

### 1. GENERAL PRINCIPLES

- 1.1 The General Principles set out the standard of behavior, which is required, and cover a wide range of situations.

### 2. EXAMPLES OF BREACHES OF GENERAL PRINCIPLES

- 2.1 Without limiting the application of the general principles, the following are specific categories of non-tolerated behaviours.

#### **Sexual Harassment**

- 2.2 "Sexual harassment" has the meaning given to it in section 62 of the Human Rights Act 1993, which defines sexual harassment as:
- a. The making of a request of any other person for sexual intercourse, sexual contact, or other form of sexual activity which contains an implied or overt promise of preferential treatment or an implied or overt threat of detrimental treatment; or
  - b. By the use of language (whether written or spoken) of a sexual nature, or of visual material of a sexual nature, or by physical behavior of a sexual nature, to subject any other person to behavior that:
    - Is unwelcome or offensive to that person (whether or not that is conveyed to the person complained about); and
    - Is either repeated, or of such a significant nature, that it has a detrimental effect on that person.
- 2.3 Nothing in this section shall apply to the use or presentation of language or materials, which is reasonably required for bona fide educational purposes.

#### **Racial Harassment**

- 2.4 "Racial harassment" has the meaning given to it in section 63 of the Human Rights Act 1993, which defines racial harassment as the use of language (whether written or spoken), or visual material, or physical behavior that:
- a. Expresses hostility against, or brings into contempt or ridicule, any other person on the ground of the color, race, or ethnic or national origins of that person; and
  - b. Is hurtful or offensive to that other person (whether or not that is conveyed to the person complained about); and
  - c. Is either repeated, or of such a significant nature, that it has a detrimental effect on that other person.

- 2.5 Nothing in this section shall apply to the use or presentation of language or materials, which is reasonably required for bona fide educational purposes.

### **Discrimination**

- 2.6 "Discrimination" means conduct which results or is likely to result in less favorable treatment, or creates or is likely to create a less favorable environment, for any person or group of people than for another person or group of people in the same or similar circumstances by reason of any of the prohibited grounds set out in section 21 of the Human Rights Act 1993; and
- 2.7 Does not fall within any of the relevant exceptions in Part II of the Human Rights Act 1993.
- 2.8 The prohibited grounds of discrimination, based on section 21 of the Human Rights Act 1993 are:
- a. Sex, including pregnancy and childbirth;
  - b. Marital status;
  - c. Religious belief;
  - d. Ethical belief;
  - e. Color;
  - f. Race;
  - g. Ethnic or national origins, which includes nationality and citizenship;
  - h. Disability;
  - i. Age;
  - j. Political opinion;
  - k. Employment status;
  - l. Family status;
  - m. Sexual orientation and gender identity.
- 2.9 Discrimination may arise from official statements, actions, omissions, decisions or policies as well as from informal or personal statements or conduct. It may also be indirect, that is, and have the effect of treating someone differently even if the discrimination is not explicit.
- 2.10 Actions by Pacific Edge constituting affirmative actions and policies to assist or advance a particular group are not discrimination. These actions and policies will be made public to the Pacific Edge community.

### **Personal Harassment and Bullying**

- 2.11 "Personal harassment" means any objectionable or offensive behavior (expressed or implied) by a member of the Pacific Edge community in relation to another member of the Pacific Edge community, which:

- a. Intimidates, humiliates, undermines or dominates that other person; or
  - b. Involves the use of abusive and/or threatening language, verbal or physical threats or any form of physical assault.
- 2.12 Personal harassment may occur as a result of a significant one-time incident or as a result of more minor incidents occurring over a period of time.
- 2.13 Bullying is a form of personal harassment which is especially characterised by persistent and offensive, abusive, intimidating, malicious or insulting behavior (express or implied) which makes the recipient(s) feel upset, threatened, humiliated or vulnerable, undermines their self-confidence and/or causes them to suffer stress. It may include emotional abuse, isolation, economic abuse, abuse of authority, denying and blaming, coercion and threats that create a risk to an individual's health and safety.

#### **Abuse of Supervisory Authority**

- 2.14 "Abuse of supervisory authority" means conduct (express or implied), by a supervisor in relation to another member of the Pacific Edge community that exceeds the normal authority of a supervisor and which:
- a. Intimidates, humiliates or undermines that other person by belittling them, or excessively, destructively or inappropriately criticising or reprimanding them, or excessively scrutinising their work; or
  - b. Makes demands that are unreasonable or outside that other person's role or activity within Pacific Edge; or
  - c. Makes a demand to perform an action that is in breach of the principles of any policy of Pacific Edge.

### **3. CONFLICTS OF INTEREST**

- 3.1 A conflict of interest may arise in a range of situations where the personal, or financial interests of an individual improperly affect or could improperly affect the carrying out of that person's or another person's duties within Pacific Edge. The conflict of interest is inherent within the existence of particular relationships and is not dependent upon any specific action.
- 3.2 In settings where there is a difference in power between people the potential for harm is greater and special care needs to be taken to avoid conflicts of interest.
- 3.3 Failure to disclose a conflict of interest, in accordance with this policy, may be considered a disciplinary matter by Pacific Edge.



## **Procedures for dealing with conflict of interest and potential conflict of interest**

- 3.4 Staff members must inform, verbally and in writing, the person to whom they normally report, (e.g. Head of Department, HR) if a conflict of interest arises or where they are uncertain as to whether a particular situation gives rise to a conflict of interest.
- 3.5 If the person to whom they normally report is also potentially involved in the conflict of interest, the staff member must report to that person's manager.
- 3.6 The person to whom the matter is reported must ensure that processes are put in place to manage or remove the conflict of interest in the best way possible and in a transparent manner, and the staff member will be an active participant in the process. This includes written documentation of the processes put in place.
- 3.7 All reasonable steps must be taken to advise those who may be affected by the measures put in place
- 3.8 After arrangements have been made to manage or remove a conflict of interest, the person to whom such a staff member would normally report (or this person's manager) is responsible for the ongoing monitoring of the situation. The purpose of such monitoring is to ensure the wellbeing of those involved and to ensure any measures put in place are not unduly affecting the work of others.
- 3.9 For detail and procedures relating to other conflicts of interest, refer to **Pacific Edge Conflicts of Interest Policy**.

## **APPENDIX 3: INFORMAL PROCESSES**

- 1.1 Pacific Edge encourages informal resolution of problems where possible. In some circumstances informal processes will be inappropriate because of the seriousness of the issues or incidents concerned and it is appropriate to move directly to the formal process. A range of people, including a contact person, a mediator, a Human Resources Advisor or a supervisor, can help a person decide whether the matter is best addressed by an informal or a formal process. Some of the more common informal processes are described below.

### **Individuals Addressing the Issue Themselves**

- 1.2 Where matters are less serious people should consider resolving an issue with the other person. This would involve the person raising their concerns directly with the other person, either with or without a support person present.
- 1.3 The people under Section 2 (Processes for Action under the Policy: Advice and Support) are available to provide advice, support and coaching to assist people who wish to pursue this resolution process.

### **Management or Third-Party Involvement**

- 1.4 Where a person does not wish to address the issue directly themselves, or where this would not be appropriate, they may ask the person to whom they report to intervene or they may ask a third party to broach the issue with the person on their behalf. It would be normal for either of these processes to be followed by a direct discussion between the parties to re-establish a constructive working relationship.

### **Mediation**

- 1.5 Mediation is a conversation between people with the help of the mediator; it is an informal and voluntary process, in which the participants identify the issues, generate options and consider alternatives in order to reach a mutually acceptable solution. It is confidential and non-disciplinary. Participants enter the process willingly and may withdraw at any time.
- 1.6 Mediation is used in a variety of situations in Pacific Edge. Pacific Edge can employ a mediator who is available to mediate all types of situations, as requested by staff.
- 1.7 If everyone is willing, mediation is one way that problems can be informally resolved. This option can be accessed by self-referral, via a contact person, or by referral from a manager or a head of department or by contacting the Pacific Edge Mediator.
- 1.8 Any member of the Pacific Edge community may approach the Pacific Edge Mediator to request mediation for matters outside the Policy. If the Pacific Edge Mediator

considers that the matter is suitable for mediation and the other person agrees to participate, mediation can be used to help resolve a variety of concerns.

- 1.9 The participants to the mediation retain all decision-making power. The mediator does not act as an advocate, a support person or a decision-maker but as a neutral facilitator. Mediation is a non-judgmental process that does not result in a winner and a loser, but in an outcome, which is acceptable to both participants.
- 1.10 All things said and any notes written in mediation are confidential. This ensures that the participants can trust the process as an opportunity to resolve issues in an open, frank and honest manner. They decide whether any agreement they reach is made available and, if so, to whom. Sometimes even the fact that mediation is occurring or has occurred will be kept private.
- 1.11 Support people may be present at the mediation.

### **Advantages of mediation**

- 1.12 Mediation is confidential and private and can often provide the quickest and easiest way for people to sort out their differences. It is non-adversarial and promotes a co-operative problem-solving approach. It provides participants with an equal opportunity to have their say in a non-threatening environment.
- 1.13 Mediation often produces the best outcome because the issues and concerns can be fully canvassed and the participants themselves determine the outcome. This helps to repair the working relationships that have broken down in a conflict. The process is future-focused with the aim being to find creative ways to meet the real needs and interests of everyone involved. It can be very helpful to talk with a mediator confidentially about the appropriateness of mediation and to weigh up the alternatives to mediation.
- 1.14 Mediation is most successful when people use it earlier rather than later, before their differences have become entrenched, but it can help even with long-standing and intractable problems.

## APPENDIX 4: FORMAL COMPLAINTS

1. The options available under the Ethical Behavior Policy Formal Complaint Process are:
  - a. If the person complained about is a manager, the person complaining may make a formal written complaint to the Pacific Edge CEO requesting that consideration be given to the matter being dealt with.
  - b. If the person complained about is not a Manager, the person complaining may make a formal written complaint to the Human Resources Manager.
  - c. Where appropriate Pacific Edge may accept complaints from third parties and/or may pursue investigations of its own if it becomes aware of alleged inappropriate behavior.

### **Confidentiality**

2. Subject to the requirements of the investigation or any legal disclosure requirements, everyone involved in a formal or informal investigation has:
  - a. The right to have information they disclose kept confidential;
  - b. The duty to respect the rights of others to the maintenance of confidence;
  - c. The right to have any limits of confidentiality explained to them.

### **Ethical Behavior Policy Formal Complaint Process**

- 3.1 When the person complained about is a Manager, a written complaint may be made to the Pacific Edge CEO.
- 3.2 When the Person complained about is not a Manager, a formal written complaint may be made to the Human Resources Manager. The formal written complaint must be signed and dated by the person complaining and should contain the following:
  - a. The name of the person complained about as well as sufficient details outlining the issue complained about.
  - b. The name of any person who may have witnessed the breach of the policy or to whom the complaint was first reported.
  - c. The outcomes, which the complainant believes, would be appropriate to resolve the matter.
  - d. Information on whether any measures to protect the person complaining are necessary.
- 3.3 The failure to include information in the formal written complaint does not nullify the complaint. The person complaining shall be available for an interview for clarification of the formal written complaint if considered necessary by the person receiving the complaint.

- 3.4 There is no time limit for the making of a formal complaint, although long delays may inhibit the ability of people to recall facts accurately and may limit the ability of the investigator to reach any conclusions.
- 3.5 If it is considered that every reasonable effort to settle the matter informally has not occurred, then if appropriate, the people involved may be encouraged that this occurs before a formal proceeding commences.
- 3.6 Upon receipt of a formal complaint, or where PE considers that there might be an issue that needs to be investigated, there are two options:
  - a. A preliminary investigation may be carried out to assess whether or not there is a prima facie case to be investigated, or
  - b. An investigator may be appointed to investigate the matters raised in the complaint. An investigator is a person with delegated authority from the Human Resources Manager appointed to investigate a formal complaint.
- 3.7 In certain circumstances the Human Resources Manager may consider that it is necessary to suspend the person complained about for the duration of the investigation.
- 3.8 The investigator of the complaint must respect the principles of natural justice which include the right of the person complained about:
  - a. To be advised of enough details of the formal complaint and the investigation to allow them to make an informed response;
  - b. To be given an opportunity to provide an explanation and make representations, including having their witnesses heard;
  - c. To be supported by or represented by the person of their choice; and
  - d. To have the matter assessed by an impartial person.
- 3.9 The investigator's role is to investigate the complaint impartially and the investigator is required to:
  - a. Provide the person complained about with a letter informing them that a complaint has been received, giving details of the allegations and defining the process of the investigation;
  - b. Receive any comments, either in person or in writing, to that letter;
  - c. Carry out such investigation as is necessary;
  - d. Advise the person complained about of their preliminary views as to those findings and as to the penalty, if any;
  - e. Receive and consider representations on those preliminary views;
  - f. Make and advise the person complained about of the final decision on the findings and as to the penalty, if any;
  - g. Advise the person complaining in confidence that a final decision has been made and give appropriate details.



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