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Policy: Vulnerable Persons Policy

Overview

Builders Academy Australia (BAA) is committed to the safety and wellbeing of vulnerable persons who interact with BAA staff. BAA does not tolerate any behaviour which is inconsistent with this commitment by any staff member of or the public on a BAA site.

Builders Academy Australia (BAA) has a separate Child Safety and Welfare Policy.

The achievement of a safe environment for vulnerable people requires the commitment of all members of the BAA community.

Vulnerable persons are more susceptible to being taken advantage of and experiencing harm. Whilst in some cases it may be obvious that a person could be considered vulnerable, in other cases a BAA staff member may not be aware that a prospective or existing student would be considered vulnerable.

As such, BAA staff must act at all times with integrity and in an ethical manner. This applies to all activities including, but not limited to:

- Marketing.
- Sales.
- Student support services.
- Training and assessment.
- Workplace site visits.

All BAA staff must ensure that they abide by local and federal laws and comply with BAA policies. All staff are required to be vigilant and raise any concerns that they have.

Activities and behaviour of all BAA staff, whether on BAA sites or elsewhere, must contribute to the safety and wellbeing of vulnerable people and not expose them to harm. Harm can be caused by action or inaction. Therefore, all BAA staff share responsibility for the safety and wellbeing of vulnerable people by complying with this policy.

BAA staff that may interact with students and prospective include, but is not limited to:

- Trainers and Assessors;
- Student Support Staff;
- Staff responsible for enrolment;
- Sales Staff;
- Compliance Staff;
- Training Department Staff.

Definitions

‘Concerning behaviour’ is the actions or inactions of a person that cause or are perceived to cause or could potentially cause harm to a vulnerable person.

‘Harm’ is defined as the detrimental impact on the physical, psychological, emotional, or social safety, wellbeing and development of a vulnerable person.

Vulnerable Persons for this purpose means:

- a) a Child or Children; or
- b) an individual aged 18 years and above who is or may be unable to take care of themselves, or is unable to protect themselves against harm or exploitation by reason of age, illness, trauma or disability, or any other reason.

A vulnerable person may also be a person who is experiencing ‘disadvantage.’ ‘Disadvantage’ refers to, but is not limited to, people who:

- Have a physical or mental disability.
- Have medical or health conditions which may make them vulnerable.
- Are experiencing social or financial hardship.
- Have difficulty communicating in English or persons with low language, literacy and / or numeracy skills.
- Have low or no formal education.
- Are homeless.
- Are victims of crime, natural disaster or other event which may make them vulnerable.
- Are migrants, refugees, or asylum seekers.
- Have an addiction.
- Are suffering from grief and loss.
- Are in a family violence situation.
- Are experiencing bullying within the workplace.
- Have low self-esteem and body image.
- Have an eating disorder.
- Suffer from depression and / or anxiety.
- Participate in self-harm.

Other Persons that may or may not be Considered Vulnerable

It is also recognised that other persons may fall into a category where some people may be considered vulnerable whilst others in that category may not. This may include people who fall into the following groups:

- Pregnant women.
- Indigenous persons.
- Long term unemployed.
- Being elderly.
- Persons belonging to remote communities.
- Persons who identify as LGBTIQ (Lesbian, gay, bisexual, transgender, intersex and queer).
- Other minority or cultural groups.
- Apprentices / trainees.

Examples of harm to a Vulnerable person

The following are examples of harm that all BAA staff must be alert to:

- Bullying or harassment in a workplace by manager, supervisor, or other colleagues (including cyber bullying).
- Bullying or harassment in a classroom by other students (including cyber bullying).
- Taking financial disadvantage.
- Workplace initiation or hazing where a staff member is made to do humiliating, inappropriate or dangerous tasks.
- Sexual harassment.
- Sexual violence.
- Physical or verbal attack.
- Threatening violence (including with equipment, knives, guns, clubs or other object that can be turned into a weapon).
- Unsupervised work of apprentices and trainees.
- Racial discrimination or profiling.
- Gender discrimination.
- Other students copying the work of vulnerable students or pressuring vulnerable students to complete their assessments.
- Other students preventing vulnerable students from participating fully in learning.
- Other unlawful acts.

This is not an exhaustive list and BAA staff should raise concerns with either a Training Manager, the General Manager Quality and Compliance or Student Welfare Coordinator.

Any concerns raised will be handled in a confidential manner.

Sexual Harassment, Grooming and Violence

Some vulnerable persons and all children are considered vulnerable to sexual harassment, grooming and violence. These are considered illegal in all states and territories.

Sexual Harassment

Sexual harassment is a broad term to describe inappropriate words, acts, behaviours, and images that are of a sexual nature.

The following is a list that is not comprehensive but can be used as a guide:

- Commentary directed at student of a sexual nature.
- Other persons commenting on body parts in a sexual manner.
- Groping and inappropriate touching.
- Jokes of a sexual nature (including jokes about virginity).
- Jokes about sexual orientation.
- Pressure to have sex with the Trainer, another student or colleague.
- Commentary about a student or colleague's sexual attractiveness.
- Sharing and distributing images that are pornographic or sexual in nature (this includes posters and calendars in workplaces).

In relation to children, it must also be noted that the following is considered to be inappropriate and, in most states, and territory illegal:

- Adults discussing sex acts in front of children.
- Pressuring young adults to have sex.
- Discussions about how to lose one's virginity.
- Pressure for young adults to discuss their sexual experiences.
- Obtaining, taking, or sharing images of child pornography.
- Having sex with a child (with or without consent).
- Performing or simulating sexual acts in front of a child.

Sexual Grooming (also known as 'Child Grooming')

Sexual grooming is befriending and establishing an emotional connection with a child, and sometimes the family, to lower the child's inhibitions for child sexual abuse. https://en.wikipedia.org/wiki/Child_grooming_-_cite_note-1 It lures minors into trafficking of children, illicit businesses such as child prostitution, or the production of child pornography.

Grooming behaviours may include the provision of, or attention paid to the child, including exposing the child to sexualised talk or pornography; providing drugs, alcohol, money, or mobile phones; or manipulating the child through threats or the misuse of authority.

Sexual Assault

Sexual assault takes many forms including attacks such as rape or attempted rape, as well as any unwanted sexual contact or threats. Usually, a sexual assault occurs when someone touches any part of another person's body in a sexual way, even through clothes, without that person's consent.

Sexual assault is illegal in all states and territories.

Age of Consent

Each state and territory specify an age of consent. Age of consent laws are designed to protect children and young people from sexual exploitation and abuse. Such laws effectively determine that children and young people below the age of consent do not have the emotional maturity to consent to sexual activities.

In relation to sexual abuse charges in each state and territory, the key difference between child sexual assault and adult sexual assault is that adult sexual assault is based on the absence of sexual consent, whereas in child sexual assault, the issue of consent is superseded by age of consent laws.

An important distinction should be made between ‘willingness’ and ‘consent.’ A child may be willing to engage in sexual behaviour; however, as they do not have the psychological capacity to give consent according to law, all sexual interactions between an adult and a person under the age of consent are considered abusive.

The legal age for consensual sex varies across Australian state and territory jurisdictions as follows:

Age	State / Territory
16	ACT, NSW, NT, QLD, WA, VIC
17	TAS, SA

Persons in Supervisory Roles

Although the legal age of consent throughout Australia is either 16 or 17 years of age, legislation in New South Wales, Victoria, Western Australia, South Australia, and the Northern Territory makes it an offence for a person in a supervisory role to sexually engage with a person under their special care who is aged 16 or 17 years.

A person in a supervisory role providing ‘special care’ may include: a teacher, Trainer, foster parent, religious official or spiritual leader, a medical practitioner, an employer of the child or a custodial official.

For the purposes of this document, it is against BAA’s policy for any staff member to have sex (consensual or not) with a person who is under the age of 18.

Consent between Minors and Similar Aged Persons

It is a common and normal part of sexual development for young people to explore and experiment in sexual interactions with their peers.

Appropriate sexual exploration is when there is mutual agreement between same- or similar-aged peers, it is non-coercive and all participants have the control to participate, continue or stop the behaviour.

In situations where there is a clear age difference - for example, a teenager and a young child - any sexual interaction is sexual abuse, as there is a definite power imbalance. However, when both parties are close in age, identifying whether the sexual activity is abusive is more complex. Three factors that must be considered in order to evaluate sexual interactions between two or more children are: consent, equality, and coercion. Reflecting on these three factors can help to clarify when behaviour is abusive.

Some states allow a balance that protects children and young people from adult sexual exploitation in a way that does not criminalise them for having sexual relationships with their peers who are of similar age if they are under the legal consent age.

The following table outlines legal age differences between two consenting children or between a consenting child and an adult for these states:

State	Age difference (both partners have consented)
ACT	If one partner is at least 10 years or older and the other partner is not more than 2 years older.
TAS	12-14 years old The partner cannot be more than 3 years older 15-17 years old The partner cannot be more than 5 years older
VIC	If one partner is 12-15 years old, the other partner cannot be more than two years older.
WA	If one partner is below consent age, their partner can be no more than three years older.

For example, in Victoria, a fifteen-year-old can legally consent to sex with a seventeen-year-old; however, a fifteen-year-old is not legally able to consent to have sex with an eighteen-year-old.

Reporting Sexual Harassment, Grooming or Assault

Child Sexual Abuse

Reporting child sexual abuse is a community-wide responsibility.

BAA does not tolerate incidents of child abuse. If you suspect an incident of child sexual abuse, you must report the matter to the General Manager Quality and Compliance or Student Welfare Coordinator.

Where clear reasonable belief is established, you will be directed to report the matter to relevant authorities.

It is a criminal offence to fail to comply to report a reasonable belief of child abuse in some states and territories.

A 'reasonable belief' is not the same as having proof. A 'reasonable belief' is formed if a reasonable person in the same position would have formed the belief on the same grounds. For example, a 'reasonable belief' might be formed when:

- A child states that they have been sexually abused.
- A child states that they know someone who has been sexually abused (sometimes the child may be talking about themselves).
- Someone who knows a child states that the child has been sexually abused.
- Professional observations of the child's behaviour or development leads a professional to form a belief that the child has been sexually abused.
- Signs of sexual abuse lead to a belief that the child has been sexually abused.
- An adult advises that they are engaging in sexual relations with a minor.

Where still in doubt, you must report this matter to the General Manager Quality and Compliance or Student Welfare Coordinator for advice.

The following help lines can provide additional assistance:

- Australian Capital Territory Child Protection Line – 1300 556 728
- New South Wales Child Protection Line - 13 21 11
- Northern Territory Child Protection Line – 1800 700 250
- Queensland Child Safety Line - 1800 177 135
- South Australia Child Abuse Report Line - 13 14 78
- Tasmania Child Protection Line – 1300 737 639
- Victoria Child Protection Crisis Line – 13 12 78
- Western Australia Child Protection Line – 13 14 44

Sexual Abuse of those over the Age of Legal Consent

You are not obliged to report sexual abuse of persons who have reached the age of legal consent to relevant authorities under the following provisions:

- They do not have an intellectual disability.
- The victim is 18 or over.
- The victim is under 18 and the perpetrator is not in a supervisory role.
- The victim advises that they do not want the matter reported.

Where in doubt, you must report this matter to the General Manager Quality and Compliance or Student Welfare Coordinator for advice.

Sexual Abuse Claim Directed At a BAA Staff Member

This matter must be immediately reported to the General Manager – Quality and Compliance or the Student Welfare Coordinator.

The person who receives the claim must maintain confidentiality of both the alleged victim and perpetrator.

Where there is reasonable belief and the alleged victim is under 18, this matter will be reported to the relevant authorities.

Where in doubt, you must report this matter to the General Manager – Quality and Compliance or Student Welfare Coordinator for advice.

The person is notified of the abuse must not discuss the matter with any other staff member other than the General Manager – Quality and Compliance and / or the Student Welfare Coordinator unless directed to do so.

An internal investigation will be undertaken and may involve HR staff and the police.

Confidentiality

In all matters relating to sexual abuse, the matter must be handled with sensitivity and confidentiality. Records relating to these matters will be stored securely with limited access.

Discussions that may arise within BAA will de-identify the victim and perpetrator where relevant.

If a matter is reported to authorities, BAA staff will follow directions from authorities and participate with all legal requirements as appropriate.

The Student Welfare Coordinator may provide support information to staff who are reporting incidences.

Reporting other Forms of Harm

Class Based

If you observe other forms of harm taking place in a classroom, it is expected that the Trainer will immediately take action to cease the form of harm.

In many cases, speaking to the parties involved will revolve the situation. However, in other cases, it may be appropriate to request that a student acting inappropriately leave the class.

In more serious cases, particularly with threats or actual violence, a Trainer may decide to call the police.

It is expected that a Trainer will use common sense in their approach and take appropriate disciplinary action.

Trainers may call their training manager for advice.

Incidents should be diarised and referred to a Training Manager.

Where a Trainer suspects that inappropriate behaviour may be occurring, they should refer to their Training Manager for advice.

Advice may also be sought from the General Manager – Quality and Compliance or Student Welfare Coordinator.

Where a Trainer witness's inappropriate or harmful behaviour as an example they may witness a student smoking an illicit drug such as marijuana during a class break, they should talk to the student

immediately and remove them from class. The Student Welfare Coordinator should be notified immediately so that they can contact and assist the student with referrals to suitable organisations for help.

Workplace Based

If other forms of harm or illegal activities are observed in the workplace, the Trainer is obligated to report this to a workplace supervisor, WHS / OHS representative or to a HR representative as appropriate to that workplace.

In some cases, it is required that a Trainer take immediate action to cease or minimise harm. For example, if they observe an apprentice or trainee using dangerous equipment unsupervised. This is also applicable to other persons working on the site that are not students. For example, a Trainer must intervene if they see a staff member who is not a student using a power tool without appropriate PPE.

It is important to note that the Trainer is obligated to also report any WHS / OHS concerns to the workplace.

The Trainer must also diarise any incident and report this to their Training Manager.

Where a Trainer suspects that harm may be occurring that they have not witnessed, they may either discuss their concerns with the workplace supervisor, WHS/OHS officer, or HR as applicable or discuss directly with their Training Manager.

Where a Trainer directly witnesses inappropriate behaviour or harm in a workplace such a bullying of an employee by a supervisor, they should discuss the matter with an alternative line manager or HR staff member within the workplace.

Advice may also be sought from the General Manager – Quality and Compliance or the Student Welfare Coordinator.

Responsibilities

BAA staff are expected to behave in a manner at all times that is:

- Professional.
- Inclusive.
- Does not use language that would generally be considered offensive.
- Contribute to the safety and well-being of all vulnerable persons.
- Complete required education and training in relation to the protection of children and / or vulnerable persons when requested.
- Consent to background checks.
- Being alert to possible forms of harms or risks.

BAA:

- Ensures all personnel have participate have read this policy. All BAA personnel are required to sign off a statement that they have read this policy and agree to abide by it.
- Ensures that all personnel are aware of their mandatory obligation to report suspected risk of significant harm and of the procedures for doing so.

BAA actively encourages all participants/clients to provide feedback in the form of verbal and/or written format. All complaints are taken seriously and responded to according to BAA Australia Complaints Policy and procedures.

BAA takes all reasonable steps to ensure it engages appropriate personnel to work with minors. BAA employs a range of screening measures and applies best practice standards in the screening and recruitment of its employees. BAA provides ongoing support for its employees to ensure the establishment and maintenance of a child safe environment is promoted.

Relevant Checking Mechanisms

Police Checks

All new training and assessment staff may be required to provide a current police check prior to commencement.

This may also apply to sales staff who deal directly with students as part of their role. This does include sales staff whose role is primarily conducted over the phone.

Staff may be asked to provide a new police check at any time. Employers may also request that Trainers provide a current police check before they can commence training and assessment in a workplace.

Jurisdiction	Name of check	Is a card issued	Valid for
ACT	Working with vulnerable persons http://www.ors.act.gov.au/community/working_with_vulnerable_people_wwvp	Yes	3 years
NSW	Working with children check http://www.kidsguardian.nsw.gov.au/Working-with-children/working-with-children-check	No	5 years
NT	Working with children clearance (also known as an 'Ochre card') http://www.workingwithchildren.nt.gov.au	Yes	2 years
QLD	Working with children check (also known as 'blue card') http://www.bluecard.qld.gov.au/	Yes	2 years
SA	DCSI child related employment screening clearance http://www.dcsi.sa.gov.au/services/screening	No	3 years
TAS	Work with vulnerable people registration May use a WWC/WVP from another state for up to 12 months http://www.justice.tas.gov.au/working_with_children	Yes	3 years
VIC	Working with children check http://www.workingwithchildren.vic.gov.au/	Yes	5 years
WA	Working with children check http://www.checkwwc.wa.gov.au	Yes	3 years

Further Reading

Workplace bullying: Violence, Harassment and Bullying Fact sheet,
<https://www.humanrights.gov.au/workplace-bullying-violence-harassment-and-bullying-fact-sheet>