DISCRIMINATION, HARASSMENT AND BULLYING POLICY

# Introduction

## Purpose

[Insert entity name, ACN and ABN] (**us, our, we**) has various policies and procedures for the effective and safe operation of our business and the welfare of all our workplace participants including all employees, work experience students, volunteers, contractors, subcontractors or agents unless expressly stated otherwise (**worker, you, your**).

The purpose of this policy is to outline our policy on discrimination, harassment (including sexual harassment), bullying, victimization and vilification including the standards of behaviour expected of all workers.

## Access

You can access this policy [Insert location e.g., on our intranet].

## Application

This policy applies to all workers and covers all work-related activities and conduct which is related to or connected with work.

Complaints made under this policy will be dealt with under the Grievance Policy and the processes and procedures set out in that policy will be followed.

## Effect

This policy does not form any part of your contract of employment or engagement. However, you have a duty to comply with the obligations and expectations set out in this policy as a reasonable and lawful direction.

## Variations

We may terminate, replace or vary this policy or introduce new policies and procedures from time to time at our sole discretion.

## Breaches and Disciplinary Action

You are required to comply with this policy (as amended from time to time). You must also report any suspected breaches of this policy to your manager.

If you breach the policy, you may be subject to disciplinary action which may involve:

* counselling;
* warning;
* demotion;
* transfer to alternative duties;
* suspension; and/or
* termination of employment/engagement.

Serious breaches of this policy may result in instant termination.

Agents and contractors may also be subject to disciplinary action or have their contracts with us terminated or alternatively, not renewed.

We may take a range of non-disciplinary outcomes to resolve a breach, depending on the particular circumstances. Examples include, but are not limited to:

* training to assist in addressing the problem(s) underpinning the breach;
* monitoring to ensure that there are no further problems;
* implementing a new policy;
* requiring an apology or an undertaking that certain behaviour stop; and/ or
* changing work arrangements.

## References

This policy should be read in conjunction with our other policies and procedures, the applicable Modern Award(s) (as defined in the Fair Work Act 2009 (Cth)) and Australian laws. To the extent of any inconsistency, the applicable Modern Award(s) and applicable laws will prevail.

## Questions

If you are unsure about any matter in this policy, you should seek clarification from your immediate manager.

## History/Version

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| **Implementation/Review Date** | **Description** | **Sections Affected** | **Revised By** | **Approved By** |
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# Discrimination, Harassment and Bullying

## Overview

Discrimination, harassment, and bullying is unlawful under federal and state Anti-Discrimination laws, state health and safety laws and the Fair Work Act 2009 (Cth) and will not be tolerated by us.

Our aim is to provide a workplace free from discrimination, harassment (including sexual harassment), bullying, victimisation and vilification. We also provide equal opportunity in employment to people without any discrimination based on any personal characteristic protected under state and federal equal opportunity legislation.

You are responsible for taking reasonable care of your own health and safety and ensuring your acts or omissions do not adversely affect the health and safety of others. You must report any conduct or behaviour that constitutes discrimination, harassment (including sexual harassment), bullying, victimisation or vilification to your manager. Workers will not be victimised or treated unfairly for raising an issue or making a complaint.

If a worker is found to have contravened this policy, they will be subject to disciplinary action which may include dismissal.

## Discrimination

**Direct discrimination** occurs when someone is treated less favourably based on a prohibited ground or attribute that is protected under law.

**Indirect discrimination** occurs when a condition, policy or rule appears neutral and is applied equally but has a discriminatory impact on persons with a protected attribute. For example, a policy that says only full-time workers will be promoted could discriminate against women who are more likely to work part-time to accommodate their family responsibilities.

Generally, it is unlawful in all states and territories to discriminate against a person on the grounds of age, disability, race, sex, relationship status, pregnancy, breastfeeding and/or family responsibilities. However, refer to the relevant federal and state/territory law for a full list of prohibited grounds as there are some differences between the jurisdictions.

The Fair Work Act 2009 (Cth) also contains protection against adverse action in employment taken because of race, colour, sex, sexual orientation, age, physical or mental disability, marital status, family or carer’s responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

Discrimination is prohibited by this policy. We will not tolerate or accept any form of discrimination.

## Harassment

**Unlawful Harassment** is unreasonable and unwelcome behaviour towards a person including, sexual harassment, harassment on the grounds of sex, disability harassment, offensive behaviour because of race, colour or national or ethnic origin.

**Sexual Harassment** is unwelcome conduct of a sexual nature in circumstances in which it could reasonably be expected to make a person feel offended, humiliated or intimidated. Sexual harassment may be physical (e.g. touching, hugging, kissing etc.) or non-physical (e.g. staring, sexual jokes, sexually explicit emails or texts etc.).

Harassment can arise from a single incident and is prohibited by this policy. We will not tolerate or accept any form of harassment.

## Bullying

Workplace bullying is generally characterised as repeated, unreasonable behaviour that is directed towards a worker or group of workers that creates a risk to health or safety (e.g., physical and/or verbal abuse, threats of violence, belittling conduct, etc.).

Unreasonable behaviour is behaviour that a reasonable person, having regard to the circumstances, would see as victimising, humiliating, undermining or threatening. For unreasonable behaviour to constitute bullying, it must be repeated. This means that there needs to be more than a single occurrence of unreasonable behaviour (but does not need to be the same unreasonable behaviour). That said, single instances should not be ignored.

Reasonable management action including legitimate and reasonable performance management, disciplinary action in line with policies and allocation of work in compliance with systems and role requirements is not bullying.

Bullying is prohibited by this policy. We will not tolerate or accept any form of workplace bullying.

## Victimisation

In broad terms, victimisation occurs when a person (includes a complainant or witness) is, or is threatened to be, treated less favourably or detrimentally (e.g. reduction of hours, demotion, termination etc.) because of an allegation or complaint. For instance, it is unlawful to victimise a person as a result of a discrimination allegation or complaint.

Victimisation is prohibited by this policy. We will not tolerate or accept victimisation, or any form of retaliation as a result of a person making a complaint in good faith.

## Vilification

In broad terms, vilification occurs when a person commits a public act which is reasonably likely to offend, insult, humiliate or intimidate another person because of a protected ground or attribute (e.g. race). Refer to relevant federal and state/territory laws for specific grounds.

Vilification is prohibited by this policy. We will not tolerate or accept any form of vilification.

## Rights and Responsibilities

We have a primary duty of care to protect, as far as is reasonably practicable, the health and safety of workers while they are at work.

We are responsible for implementing this policy, monitoring compliance and providing an avenue for complaints to be made and addressed.

**Workers**

Workers have the right to:

* lodge a grievance or complaint in a reasonable and respectful manner without being victimised; and
* work free from discrimination, harassment (including sexual harassment), bullying, victimisation and vilification.

Workers have the following responsibilities:

* to familiarise themselves and comply with this policy and applicable laws;
* to refrain from any conduct or behaviour that may constitute discrimination, harassment (including sexual harassment), bullying, victimisation, vilification or a breach of this policy;
* to treat people fairly, with respect and dignity;
* to not assist or encourage others to breach this policy;
* to take reasonable care for their own health and safety and not adversely affect the health and safety of other workers;
* to comply with our reasonable and lawful directions including as set out in this policy and any other policy or procedure relating to health and safety in the workplace or in connection with work;
* to report any conduct or behaviour that may constitute discrimination, harassment (including sexual harassment), bullying, victimisation, vilification or a breach of this policy to their manager;
* to not make any false, frivolous or vexations complaints; and
* to maintain confidentiality if they provide information in relation to a complaint.

Workers have a duty to take reasonable care when at work to avoid adversely affecting the health and safety of themselves and others. Workers may be personally liable if they engage in discrimination, harassment (including sexual harassment), bullying, victimisation, vilification or a breach of this policy.

**Managers**

Managers have the following responsibilities:

* to promote and model acceptable and appropriate workplace behaviour;
* to promote our policies and procedures and ensure workers understand their responsibilities; and
* to take reasonable steps to prevent discrimination, harassment (including sexual harassment), bullying, victimisation and vilification in the workplace or in connection with work.

## Complaints

If you believe that you are being, or have been, discriminated against, harassed, or bullied, you should follow the Grievance Policy. You should feel confident that any complaint you make is to be treated as confidential to the maximum extent possible.

If you witness any form of discrimination, harassment, or bullying, you should follow the Grievance Policy. All persons involved in the resolution of a grievance have an obligation to treat the complaint as confidential to the maximum extent possible.

If we receive a complaint, we will manage the complaint in accordance with the Grievance Policy.

Any complaint must be made in good faith and not be malicious, false or misleading.

## Worker Acknowledgement

I acknowledge that:

1. I have received and read this policy;
2. I understand my obligations and will comply with the policy;
3. there may be disciplinary consequences if I fail to comply with the policy, which may result in the termination of my employment/engagement; and
4. I will contact my manager if I require clarification on, or do not comprehend, any part of the policy.

Signed .............................................................

Name .............................................................

Date ..............................................................