

# Bullying harassment and discrimination

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## Introduction

All services and supports are provided in a safe, flexible and respectful environment for employees and clients free from all forms of bullying, harassment and discrimination. All representatives are required to treat others, including other employees and clients, with dignity, courtesy and respect. This policy sets a standard for all employees and creates a positive environment for both employees and clients.

## Applicability

### When

- applies at all times including when we provide services to clients and when we interact with members of the public
- applies on-site, off-site - including social media platforms, or after hours work; during work-related social functions and conferences—wherever and whenever employees may be as a result of their duties.

### Who

- applies to all representatives including The Management Team, directors, full-time employees, part-time or casual employees, job candidates; student placements, apprentices, contractors, volunteers
- applies when employees encounter other clients and members of the public in the course of their duties.

## Definitions

Term	Description
repeated behaviour	Refers to the persistent nature of the behaviour and can refer to a range of behaviours over time.
unreasonable behaviour	Refers to 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.
workplace bullying	Is defined as repeated and unreasonable behaviour directed towards a employee or a group of employees that creates a risk to a health and safety.

## Documents relevant to this policy

 <a href="#">Age Discrimination Act 2004 (Cth)</a> 
 <a href="#">Australian Human Rights Commission Act 1986 (Cth)</a> 
 <a href="#">Disability Discrimination Act 1992 (Cth)</a> 
 <a href="#">NDIS (Quality Indicators) Guidelines 2018 (Cth)</a> 
 <a href="#">Racial Discrimination Act 1975 (Cth)</a> 
 <a href="#">Sex Discrimination Act 1984 (Cth) (legislation)</a> 

## Employee rights

- recruitment and selection decisions based on merit and not affected by irrelevant personal characteristics
- to work free from discrimination, bullying and sexual harassment
- 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 family responsibilities, disability, religious beliefs or culture.

## Employee responsibilities to prevent bullying harassment and discrimination

People are expected to:

- behave in a responsible and professional manner
- listen and respond appropriately to the views and concerns of others
- offer support to people who experience discrimination, bullying or sexual harassment, including providing information about how to make a complaint
- avoid gossip and respect the confidentiality of complaint procedures
- treat everyone with dignity, courtesy and respect.

## The Management Teams' responsibilities to prevent bullying harassment and discrimination

- 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 appropriately when they become aware of inappropriate behaviour
- 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 Management Team 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.

## Unacceptable conduct

- discrimination, bullying and sexual harassment are unacceptable and unlawful under the following legislation:
  - [Sex Discrimination Act 1984 \(Cth\)](#)

- [Racial Discrimination Act 1975 \(Cth\)](#)
- [Disability Discrimination Act 1992 \(Cth\)](#)
- [Age Discrimination Act 2004 \(Cth\)](#)
- [Australian Human Rights Commission Act 1986 \(Cth\)](#)
- any employees or key management personnel found to have engaged in such conduct will be counselled, warned or disciplined—severe or repeated breaches may lead to formal discipline or dismissal
- any allegation of discrimination, bullying or harassment is an incident—follow the Manage incident internally process for resolution.

## Discrimination

- discrimination is treating, or proposing to treat, someone unfavourably because of a personal characteristic protected by the law, such as sex, age, race or disability
- discrimination can occur:

directly	<p>When a person or group is treated less favourably than another person or group in a similar situation because of a personal characteristic protected by law (see list below).</p> <p>For example, an employee is harassed and humiliated because of their race</p> <p>or</p> <p>An employee is refused promotion because they are ‘too old’.</p>
indirectly	<p>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).</p> <p>For example, redundancy is decided based on people who have had an employee’s compensation claim rather than on merit.</p>

- protected personal characteristics under Commonwealth discrimination law 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 members
  - race, colour, descent, national origin, or ethnic background
  - age, whether young or old, or because of age in general
  - gender
  - industrial activity, including being a member of an industrial organisation like a trade union or taking part in industrial activity, or deciding not to join a union
  - religion
  - pregnancy and breastfeeding
  - sexual orientation, intersex status or gender identity, including heterosexual, gay, lesbian, bisexual, transsexual, transgender, queer or questioning

- marital status, whether married, divorced, unmarried or in a de facto relationship or same sex relationship
  - political opinion
  - social origin
  - medical record
  - 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 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.

## Bullying

- if someone is being bullied because of a personal characteristic protected by equal opportunity law, it is a form of discrimination
- bullying can take many forms, including jokes, teasing, nicknames, emails, pictures, text messages, social isolation or ignoring people, or unfair work practices
- under Commonwealth law, this behaviour does not have to be repeated to be discrimination—it may be a one-off event
- behaviours that may constitute bullying include:
  - sarcasm and other forms of demeaning language
  - threats, abuse or shouting
  - coercion
  - isolation
  - inappropriate blaming
  - ganging up
  - constant unconstructive criticism
  - deliberately withholding information or equipment that a person needs to do their job or access their entitlements
  - unreasonable refusal of requests for leave, training or other workplace benefits
- bullying is unacceptable and may also breach work health and safety laws.

It is not considered bullying if reasonable management action is taken by managers or supervisors. The Management Team are able to control the way work is carried out and is not considered to be workplace bullying if the action is taken in a reasonable and lawful way.

## Sexual harassment

- sexual harassment is a specific and serious form of harassment often in the form of unwelcome physical, spoken or written sexual behaviour, which could be expected to make a person feel offended, humiliated or intimidated
- sexual harassment can include:
  - comments about a person's private life or the way they look
  - 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 unwanted requests to go out
  - requests for sex
  - sexually explicit posts on social networking sites
  - insults or taunts of a sexual nature

- intrusive questions or statements about a person's private life
  - sending sexually explicit emails or text messages
  - inappropriate advances on social networking sites
  - accessing sexually explicit internet sites
  - behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications
- even if someone does not object to inappropriate behaviour in the workplace, 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 and volunteers 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 key management personnel to respond quickly and appropriately
  - we recognise that comments and behaviour that do not offend one person can offend another
  - this policy requires all our representatives to respect other people's limits.

## 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
- it is also victimisation to threaten someone (such as a witness) who may be involved in investigating an equal opportunity concern or complaint.

## Gossip

- employees should not talk with other employees, clients or suppliers about any complaint of discrimination or harassment
- breaching the confidentiality of a formal complaint investigation or inappropriately disclosing personal information obtained in a professional role is a serious breach of this policy and may lead to formal discipline.

## Merit

- all recruitment and job selection decisions are 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.

## Resolving issues

- we strongly encourage any employee who believes they have been discriminated against, bullied, sexually harassed or victimised to take appropriate action
- if you are not comfortable dealing with the problem yourself, or your attempts to do so have not been successful you should raise the issue with either your supervisor, health and safety representative, other manager within the

organisation or by making a complaint

- if you are member of the union you may also raise any issues with your delegate
- if you witness unreasonable behaviour you should bring the matter to the attention of your manager as a matter of urgency.

## Responding to issues

If workplace bullying or unreasonable behaviour is reported or observed we will take the following steps:

1. The responsible supervisor or manager will speak to the parties involved as soon as possible, gather information and seek a resolution to satisfactorily address the issue for all parties.
2. If issues cannot be resolved or the unreasonable behaviour is considered to be of a serious nature, an impartial person will be appointed to investigate. Both sides will be able to state their case and relevant information will be collected and considered before a decision is made.
3. All complaints and reports will be treated in the strictest of confidence. Only those people directly involved in the complaint or in resolving it will have access to the information.
4. There will be no victimisation of the person making the report or helping to resolve it. Complaints made maliciously or in bad faith will result in disciplinary action

If bullying has not occurred or has not been substantiated through an investigation, NWSS may still take appropriate action to address any workplace issues leading to the report.

## Breach of bullying harassment and discrimination policy

- appropriate disciplinary action will be taken against a person who is found to have breached this policy. These measures will depend on the nature and circumstances of each breach and could include:
  - a verbal or written apology
  - one or more parties agreeing to participate in counselling or training
  - a verbal or written reprimand
  - transfer, demotion or dismissal of the person engaging in the bullying behaviour.
- victimisation is also a serious breach of this policy and is likely to result in formal discipline against the perpetrator.