

# Bullying and Harassment Policy: Supporting Respectful Workplaces

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## 1 Purpose

This policy outlines the responsibilities of managers and employees to achieve and maintain a workplace where everyone is treated with dignity and respect. It also alerts all employees to the types of behaviours considered inappropriate as referred to in section 5.

This policy should be read in conjunction with the [Managing Workplace Issues Procedure](#) and is a supporting document to the [Code of Ethical Conduct](#).

## 2 Scope

This policy applies to all DCJ employees within the Stronger Communities Cluster, including senior executives. By accepting employment with the department, employees must be aware of, and comply with, this policy at all times.

Contractors, consultants, suppliers, volunteers, students, apprentices/trainees and those on work experience must also be made aware of this policy, and the requirement for them to act in accordance with it, for the period of their engagement. Employees who engage or manage external consultants, contractors, suppliers, volunteers or students are responsible for referring this document to the appropriate employer and/or respective organisation to address concerns regarding inappropriate behaviour, which may be considered contrary to this policy and the Code of Ethical Conduct.

This policy is applicable to any interaction employees have with other people in the workplace or through association with the workplace. This may include interactions outside of the workplace including social events, sporting groups and electronic interactions such as social media, email and text.

## 3 Policy statement

The Department of Communities and Justice (DCJ) is committed to creating a workplace culture where all employees are treated with dignity and respect.

All employees must behave in accordance with the department's Code of Ethical Conduct and display values of Service, Trust, Accountability, Integrity and Respect.

All employees have a shared obligation to create and maintain a positive, productive and respectful work environment.

## 4 Responsibilities

### 4.1 Employees

All employees of the department must:

- ensure they understand and act in accordance with the Department's values, Code of Ethical Conduct, the Bullying and Harassment Policy and the Managing Workplace Issues Procedure
- not engage in inappropriate workplace behaviour
- attempt/assist to resolve any workplace issues or misunderstandings promptly, appropriately and at a local level (where appropriate).

## **4.2 Managers**

In addition to the employee responsibilities, managers must:

- model departmental values, ethical behaviour and maintain a professional work environment
- ensure employees know the standards of appropriate behaviour in the workplace
- take all reasonable steps to ensure the workplace is free of inappropriate behaviour in accordance with the Code of Ethical Conduct and related documents/standards
- ensure employees are provided with sufficient information to understand this policy and their obligations
- deal promptly with inappropriate behaviour by having a confidential, clear and direct conversation with the employee about the need for the behaviour to stop, the expected standards and the next steps
- assist employees who may have experienced or exhibited inappropriate workplace behaviours to resolve the issue at a local level (where appropriate) in accordance with the Managing Workplace Issues Procedure, to prevent a reoccurrence
- have frequent and meaningful conversations with their team about values and ethical behaviour
- provide advice on the Code of Ethical Conduct, Bullying and Harassment Policy, Managing Workplace Issues Procedures to employees in each work area.

## **4.3 Directors**

In addition to the employee and manager responsibilities, directors must:

- analyse the risk of bullying, harassment and discrimination and take all reasonable steps to ensure the workplace is free of inappropriate behaviour in accordance with the Code of Ethical Conduct
- work with managers to monitor and track complaint quantity, types, themes and resolution in their areas/teams

- ensure that complaints in their areas are managed and resolved or escalated (where appropriate) in line with this policy and the Managing Workplace Issues Procedure
- acknowledge and understand that addressing risks associated with inappropriate behaviours is a legislative duty under the [Work Health and Safety Act 2011\(NSW\)](#) and [Work Health and Safety Regulations 2017 \(NSW\)](#).

#### **4.4 The Executive**

The department's executive has responsibility for creating a workplace free from inappropriate behaviour.

In addition to employee, manager, and director responsibilities, an executive must ensure the appropriate policy, procedures and systems are in place, as well as mechanisms to address complaints about inappropriate behaviour.

#### **4.5 Conduct and Professional Standards Unit (CaPS)/Professional Standards Branch (PSB) Corrective Services employees:**

- manages /examines serious or complex matters which may involve misconduct including (but not limited to) allegations of bullying, harassment or discrimination
- collects data, maintain systems and provides management reports on bullying harassment and discrimination which may involve misconduct
- provide advice to managers/directors to determine if matters are misconduct and require referral to Police (where necessary) in the event of a relevant issue.

#### **4.6 People Branch Business Partner**

- provide advice & support on processes supporting the resolution of workplace issues at a local level where appropriate.

#### **4.7 Work Health and Safety and Injury Management Employees**

- receive incident reports through the applicable WHS incident reporting system
- consider any immediate risks to health and safety and possible breaches of work health and safety legislation
- consult with an injured person (where applicable), the People Branch Business Partner, relevant manager and other business areas to determine suitable next steps and process
- assist with the investigation where required
- support the injured person (when relevant) in return to work outcomes

- provide data to departmental and divisional executive on Workers Compensation claims that may relate to inappropriate behaviours and relevant inappropriate behaviour claims.

## **5 What constitutes inappropriate behaviour**

### **5.1 Inappropriate behaviour**

Inappropriate behaviour is the collective term used within this policy for workplace issues, bullying, harassment, sexual harassment, discrimination, vilification, violence and victimisation. Inappropriate behaviour may vary in nature and seriousness, and occur within broad and diverse range circumstances, which will require different forms of management.

The department will not tolerate inappropriate behaviour. The management of these matters will be in accordance with the relevant departmental policy and procedures and will be dealt with promptly. The matter will be treated seriously, fairly, confidentially, impartially and without victimisation.

### **5.2 Reasonable management action**

It is important to differentiate between a person's legitimate authority at work, and bullying. All employers have a legal right to direct and control how work is done, and managers have a responsibility to monitor workflow, give feedback and manage performance in a reasonable manner.

Reasonable management action includes:

- leading, directing and controlling how work is done
- setting realistic and achievable performance goals, standards and deadlines
- fair and appropriate rostering and allocation of working hours
- deciding not to select an employee for a promotion where a fair and transparent process is followed and where there is a justified basis for the decision
- informing an employee about unsatisfactory or below expected work performance in an honest, fair and constructive way
- informing an employee about unreasonable/inappropriate behaviour in an objective and confidential way
- assigning an employee to a different workplace location or adjusting duties to meet organisational needs or to manage any properly identified risks of managing workplace issues or alleged misconduct
- implementing organisational changes or restructuring
- taking disciplinary action, including suspension or terminating employment where appropriate or justified in the circumstances.

## 5.3 Types of inappropriate behaviour

### 5.3.1 Bullying

Workplace bullying is repeated and unreasonable behaviour directed towards an employee or a group of employees that creates a risk to health and safety ([Work, Health and Safety Act \(NSW\) 2011](#)).

Examples of unreasonable behaviour includes (but are not limited to):

- offensive language or comments
- unjustified criticism
- aggressive and intimidating conduct
- deliberately excluding someone from workplace activities
- withholding information that is needed for work
- a person treating one or more people in the workplace less favourably, either directly or indirectly, may be considered unreasonable and inappropriate
- setting unreasonable timelines or constantly changing deadlines
- setting tasks that are unreasonably below or beyond a person's skill level
- denying access to information, supervision, consultation or resources to the detriment of the employee.

Unreasonable behaviour amounts to bullying if it meets the following criteria:

- it is repeated
- it is unwelcome and unsolicited
- based on the available information, the behaviour is considered offensive, intimidating, degrading, humiliating or threatening to the individual it is directed at, or others who are witness to or affected by the behaviour.

### 5.3.2 Harassment

Under NSW anti-discrimination law, harassment is any form of behaviour that:

- is not wanted
- offends, humiliates or intimidates, and
- targets a person because of that person's sex, pregnancy, ethnicity, religion, age, marital status, sexual orientation, gender identity, disability or carer's responsibilities.

Harassment does not need to be repeated behaviour. Sometimes a single incident is enough to be regarded as harassment.

### 5.3.3 Sexual Harassment

Sexual harassment is unlawful under section 22A of the [Anti-Discrimination Act \(NSW\) 1977](#). It is any form of sexually related behaviour that:

- is unwelcome, and
- having regard to all the circumstances, a reasonable person would have anticipated that the behaviour would have offended, humiliated or intimidated another person.

Sexual harassment does not need to be repeated behaviour. A single incident may be enough to be regarded as sexual harassment.

The department can also be vicariously liable for acts of sexual harassment by its employees.

Serious sexual harassment could also be regarded as sexual assault and may be treated as a crime under the [Crimes Act \(NSW\) 1900](#).

### 5.3.4 Discrimination

Discrimination is where a person is treated less favourably than someone else, because of an identified ground such as their sex, pregnancy, ethnicity, religion, age, marital status, ethno-religious origin, sexual orientation, gender identity, disability or carer's responsibilities. Such discrimination is against the law.

Discrimination may be deliberate. It may also be the result of inadvertent practices that appear to be fair to everyone but in fact have a disproportionate impact on individuals or certain groups.

### 5.3.5 Vilification

Any act that occurs publicly which could incite or encourage others to hate, have serious contempt for, or severely ridicule a person or group of people, because of their race, ethno-religious background, sexual orientation, gender identity or medical status. Serious vilification can amount to a criminal offence.

### 5.3.6 Violence

Workplace violence is a serious work, health and safety hazard that may be encountered in the workplace. It can cause physical and/or psychological injury and suffering and may result in serious injury.

Workplace violence is any incident where an employee is physically attacked or threatened or subjected to aggression in the workplace. Violence and aggression include verbal and emotional abuse or threats, or a physical attack to an individual or to property by another individual or group.

Workplace violence can have significant short and long-term impacts on an employee's psychological and physical health. These can in turn have significant

economic and social costs for our employees, their families, the department and wider community.

Under NSW law, if an individual threatens to commit an act of violence against an employee, and that person believes the individual is capable of carrying out the threat, then a crime may be considered to have occurred (even in the absence of direct physical contact).

All acts of violence in the workplace must be reported through the relevant safety reporting system and referred to Conduct and Professional Standards/Professional Standards Branch and NSW Police where necessary.

### 5.3.7 Victimisation

Victimisation is subjecting or threatening a person with some form of detriment because they have:

- lodged, or are proposing to lodge, a complaint of discrimination or harassment
- provided information or documents to an internal investigation
- reasonably asserted their rights, or supported someone else's rights under anti-discrimination laws
- made an allegation that a person has acted unlawfully or;
- made a Public Interest Disclosure

Victimisation is unlawful under the [Anti-Discrimination Act \(NSW\) 1977](#) and the [Public Interest Disclosures Act \(NSW\) 1994](#) and allegations of victimisation should be referred directly to Conduct and Professional Standards/Professional Standards Branch.

## 6 Breaches

Breaches of this policy are considered to be contrary to the Code of Ethical Conduct. In circumstances where an employee is found to have engaged in inappropriate behaviours towards another employee, group of employees, suppliers or clients, they are deemed to be in breach of this policy, and may be subject to management and misconduct action, which may or could include termination, dependent on the specific circumstances.

Misconduct matters will be managed in accordance with the [Government Sector Employment Act 2013](#) and relevant departmental procedures.

## 7 Support and advice

Advice and support regarding this policy is available from:

- managers
- your local People Branch Business Partner

- ServiceNow (where applicable)
- the intranet
- Union representatives
- the Employee Assistance Program
- the Conduct and Professional Standards Unit/Professional Standards Branch
- Delegated Work Health and Safety Officer.

Contractors and consultants should discuss this policy with their respective organisation/agency. Volunteers should also discuss this policy with their departmental contact officer.

## 8 Related legislation and documents

- [Anti-Discrimination Act \(NSW\) 1977](#)
- [Crimes Act \(NSW\) 1900](#)
- [Government Sector Employment Act \(NSW\) 2013](#)
- [Industrial Relations Act \(NSW\) 1996](#)
- [Public Interest Disclosures Act \(NSW\) 1994](#)
- [Work Health and Safety Act \(NSW\) 2011](#)
- [Work Health and Safety Regulation \(NSW\) 2017](#)
- The Common Law can also apply; that is employee rights and duties as set down by Australian Courts
- [Code of Ethical Conduct](#)
- [Managing Workplace Issues Procedure](#)
- Community Service Authorised Code of Conduct.

## 9 Document information

Document name	Bullying and Harassment Policy
Applies to	All Department of Communities and Justice employees, contractors, consultants, volunteers, students, apprentices / trainees, suppliers and those on work experience.
Replaces	Department of Family and Community Services Respectful Workplace Policy Department of Justice Dignity and Respect Policy
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	Executive Board 14 April 2021
Version	1.0
Commenced	19 April 2021
Due for review	18 April 2023
Policy owner	Workforce Strategy, Inclusion and Systems

## 10 Support and advice

Who can people go to if they need more advice?

Business unit	Workforce Strategy, Inclusion and Systems People Corporate Services
Email	<a href="mailto:HRPolicyGovernance@facs.nsw.gov.au">HRPolicyGovernance@facs.nsw.gov.au</a>