

# Bullying harassment and discrimination

Last edited: 26 Mar 2025, 10:04 AM

## Introduction

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

## Applicability

When
<ul style="list-style-type: none"><li>• applies at all times including when we provide services to participants and when we interact with members of the public</li><li>• applies on-site, off-site or after hours work; during work-related social functions and conferences—wherever and whenever workers may be as a result of their duties.</li></ul>
Who
<ul style="list-style-type: none"><li>• applies to all representatives including key management personnel, directors, full-time workers, part-time or casual workers, job candidates; student placements, apprentices, contractors, volunteers</li><li>• applies when workers encounter other participants and members of the public in the course of their duties.</li></ul>

Governing regulations for this policy

	Age Discrimination Act 2004 (Cth)
	Anti-Discrimination Act 1977 (NSW)
	Anti-Discrimination Act 1991 (Qld)
	Anti-Discrimination Act 1992 (NT)
	Anti-Discrimination Act 1998 (Tas)
	Australian Human Rights Commission Act 1986 (Cth)
	Charter of Human Rights and Responsibilities Act 2006 (Vic)
	Disability Discrimination Act 1992 (Cth)
	Disability Inclusion Act 2014 (NSW)
	Disability Inclusion Act 2018 (SA)
	Discrimination Act 1991 (ACT)
	Equal Employment Opportunity (Commonwealth Authorities) Act 1987 (Cth)
	Equal Opportunity Act 1984 (SA)
	Equal Opportunity Act 1984 (WA)
	Equal Opportunity Act 2010 (Vic)
	NDIS (Quality Indicators) Guidelines 2018 (Cth)
	Racial Discrimination Act 1975 (Cth)
	Sex Discrimination Act 1984 (Cth)
	Workplace Gender Equality Act 2012 (Cth)

## Worker rights

Every worker has the right to:

- recruitment and selection decisions based on merit and not affected by irrelevant personal characteristics
- work free from discrimination, bullying and sexual harassment
- raise issues or make an enquiry or complaint in a reasonable and respectful manner without being victimised
- reasonable flexibility in working arrangements, especially if needed to accommodate family responsibilities, disability, religious beliefs or culture.

## Worker responsibilities to prevent bullying harassment and discrimination

To prevent bullying harassment and discrimination, worker responsibilities are to:

- follow the standards of behaviour outlined in this policy
- 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.

# Key management personnel responsibilities to prevent bullying harassment and discrimination

To prevent bullying, harassment and discrimination, the responsibilities of key management personnel are to:

- model appropriate standards of behaviour
- take steps to educate and make staff 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 staff resolve complaints informally
- refer formal complaints about breaches of this policy to key management personnel for investigation
- ensure workers 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 workers 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 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, a worker is harassed and humiliated because of their race</p> <p>or</p> <p>A worker is refused promotion because they are ‘too old’.</p>
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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 a worker’s compensation claim rather than on merit.</p>
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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.

# Harassment

Harassment is when a person, or a group of people, is intimidated, insulted or humiliated because of one or more characteristics. This is unlawful harassment which can be a single incident or a number of incidents over a period of time.

Harassment can include:

- telling jokes about particular racial groups
- sending explicit or sexually suggestive emails or texts (see sexual harassment)
- displaying offensive or pornographic websites or screen savers (see sexual harassment)
- making derogatory comments or taunts about someone's race or religion, gender, sexual orientation or disability
- making jokes and innuendos, or threats to a person based on their sexual orientation (see sexual harassment)
- referring to a transgender person as 'him' although she identifies as female and has asked to be addressed accordingly
- forcing a worker or participant who identifies as intersex to use separate facilities such as a unisex, gender neutral or all gender toilet
- asking intrusive questions about someone's personal life, including their disability or sex life
- creating a hostile working environment, for example, where the display of pornographic materials or crude conversations, innuendo or offensive jokes are part of the accepted culture.

## 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 staff 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

Workers should not talk with other workers, participants 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 worker who believes they have been discriminated against, bullied, sexually harassed or victimised to take appropriate action by speaking to key management personnel or submitting a complaint.

## Virtual spaces

All the guidelines outlined in this policy also apply to non face-to-face interactions. We do not tolerate any form of bullying harassment or discrimination:

- over the phone or through SMS
- via email or chat
- on social media
- in any other virtual or non face-to-face environment.

## What is NOT bullying, harassment and discrimination

Understanding what is not considered bullying, harassment and discrimination is as important as knowing what is, as it helps clarify fair and lawful practices in contrast with unfair treatment.

Please see relevant examples below.

The following does NOT constitute discrimination:

- making hiring or promotion decisions based on experience, qualifications and/or performance
- receiving disciplinary action and/or constructive feedback based on clearly demonstrated poor work performance - such as failure to follow policies or lack of punctuality
- hiring based on genuine occupational requirements - such as hiring workers of a specific gender for gender-specific support or hiring workers of a specific linguistic/cultural background to meet a participant's specific requirements around language and culture
- setting standard work expectations that apply to all workers equally - such as the requirement to wear personal protective equipment (PPE)
- providing reasonable work adjustments for people based on their ability level or specific cultural/religious needs
- following legal requirements - such as those relating to age restrictions, security clearances and citizenship status.

The following does NOT constitute bullying:

- respectfully expressed disagreements or differences of opinion - such as debating differing ideas in a meeting, without personal attacks or put-downs
- constructive feedback and performance management - such as managers giving workers specific, honest and constructive feedback that is designed to improve performance
- reasonable work requests - such as asking a worker to complete tasks that are within their scope of work and workload
- enforcing legislative, regulatory and policy requirements - such as enforcing our health and safety protocols
- allocating shifts and tasks based on business needs and a worker's experience - such as selecting a more experienced worker to manage a challenging situation with a participant
- excluding someone from an irrelevant meeting or project - such as not inviting a worker to a meeting that does not relate to their work or role
- not being friends with a person in the workplace - such as not having a natural rapport with a specific colleague (as long as this lack of rapport is not characterised by exclusionary tactics, personal attacks or intentional targeting).

The following does NOT constitute harassment:

- friendly social interactions - such as light-hearted jokes and banter throughout the day (when appropriate and welcomed)
- respectfully expressed disagreements or differences of opinion - such as debating differing ideas in a meeting, without personal attacks or put-downs
- physical contact in appropriate contexts - such as a handshake
- constructive feedback and performance management - such as managers giving workers specific, honest and constructive feedback that is designed to improve performance
- reasonable work requests - such as a manager requesting a worker to complete a task that aligns with their role
- high but reasonable performance standards - such as manager setting specific goals and expecting completion within a reasonable timeframe
- direct and clear communication - such as a manager respectfully giving clear instructions
- social invitations - such as inviting a colleague to a social gathering (unless these invitations become repeated and unwelcome after a person declines).

Overall, it is expected that all workers handle all workplace interactions, including any instances of frustration or disagreement, in a calm, respectful and professional manner.

## Breach of bullying harassment and discrimination policy

Any allegation that breaches this policy is an incident—refer to the Manage incident process for resolution.

Allegations that breach this policy may lead to disciplinary action including termination of employment—refer to the Manage worker performance process.

Victimisation is also a serious breach of this policy and is likely to result in formal discipline against the perpetrator.