

Bullying, Harassment and Discrimination Policy

Policy Number	Date Approved	Date Last Amended	Review Date	Status
CA-4.2	February 2019	March 2020	October 2023	APPROVED

1. Purpose

CA aims to provide a safe and productive work environment in which employees and customers are treated with dignity, courtesy and respect.

Bullying, harassment and discrimination can be direct or indirect and carried out verbally, physically or in writing or images. This may occur via email, internet, social media websites, chat rooms, instant messaging and mobile phone technologies such as text messaging.

This Policy is designed to define and describe behaviours that might constitute bullying, harassment and discrimination under this Policy and relevant legislation. The policy also outlines CA's approach to responding to instances of non-compliance or complaints under this policy, and monitoring compliance with this policy.

This policy applies to all employees. It also applies to the way employees interact with clients, volunteers, key stakeholders, contractors and visitors

2. Policy

All forms of discrimination, harassment and bullying by or toward employees, contractors, volunteers, suppliers or customers are considered unacceptable and will not be tolerated under any circumstances.

CA encourages the reporting of behaviour that breaches the Bullying, Harassment and Discrimination Policy, and is required to take all reasonable steps to prevent such behaviour, and provide an effective procedure for resolving complaints, based on the principles of procedural fairness, that ensures complaints are treated in a sensitive, fair, timely and confidential manner.

CA aims to:

- Promote an environment free from bullying, harassment and discrimination for all employees and customers
- Create a culture that encourages respect and welcomes individual differences
- Accept and act on complaints of bullying, harassment or discrimination and take all reasonable steps to protect employees and volunteers who responsibly exercise their rights under this policy against victimisation
- Provide an effective procedure for resolving complaints, based on the principles of procedural fairness, that ensures complaints are treated in a sensitive, fair, timely and confidential manner
- Implement training and awareness raising strategies to ensure that all employees and volunteers are aware of their rights and responsibilities in relation to bullying, harassment and discrimination
- Implement training and awareness raising strategies to ensure Managers and Supervisors are promoting an environment free from bullying, harassment and discrimination and implementing the policy and procedures to deal with inappropriate behaviour in the workplace including bullying, harassment and discrimination.
- Comply with all relevant legislation and industry standards
- Offer employees impacted by bullying, harassment and/or discrimination access to external counselling services.

3. Defining Bullying, Harassment and Discrimination

Bullying: Whilst not having a legal definition, workplace bullying is often characterised as repeated unreasonable behaviour directed toward an employee, or group of employees and / or volunteers, that creates a risk to health and safety.

The following actions are not deemed to be bullying if they are performed in a reasonable way:

- Reasonable management actions
- Single incidents
- Setting performance goals, standards and deadlines
- Allocating work to an employee

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- Transferring an employee
- Deciding not to select an employee for promotion
- Informing an employee about unsatisfactory work performance
- Informing an employee about inappropriate behaviour
- Implementing organizational changes
- Performance management processes
- Constructive feedback
- Downsizing
- Discipline

Harassment: Harassment is a form of discrimination if it occurs on the basis of a person's "protected attribute".

Under Federal and State legislation, unlawful harassment occurs when someone is made to feel intimidated, insulted or humiliated because of a person's 'protected attribute', which may include their race, colour, national or ethnic origin, sex, disability, mental wellbeing, sexual preference and / or some other characteristic specified under anti-discrimination legislation. Harassment can also occur if someone is working in a hostile or intimidating work environment.

Behaviour or conduct can be found to be unlawful harassment whether harassment was intended or unintended.

Sexual Harassment: A person sexually harasses another person if he or she:

- engages in conduct that is unwelcome
- the conduct is of a sexual nature
- the conduct caused the person to feel offended, humiliated or intimidated in circumstances in which a REASONABLE person (having regard to all the circumstances) would have anticipated that the other person would be offended, humiliated or intimidated. The following actions may be considered sexual harassment:
- Subjecting a person to an act of physical intimacy; or
- Making any remark or statement with sexual connotations to a person or about a person in his or her presence, whether orally or in writing. This may include but not limited to; remarks or statements which are transmitted by phone, fax, video conference, social media or E-Mail; or
- Making any gesture, action or comment of a sexual nature in a person's presence; or
- Subjecting a person to sexually explicit material such as social media posts, text messages, social media messages, application messages or any telecommunication transmissions, pinups and posters, and sexually explicit jokes.

Discrimination: Discrimination means – being treated unfairly or not as well as others because of a protected characteristic such as age, sexual orientation, gender identity, race or disability, breast feeding, employment activity, marital status, pregnancy, political or religious, beliefs or activity.

Discrimination can be direct or indirect.

- Direct discrimination occurs if a person treats, or proposes to treat, someone with a "protected attribute" less favourably than the person treats or would treat someone without that "protected attribute", or with a different attribute, in the same or similar circumstances. The motive or intention of a person alleged to have committed direct discrimination against another is irrelevant.
- Indirect discrimination occurs when an unreasonable requirement, condition or practice which may appear to be neutral, in fact has a disproportionately negative impact on people with particular attributes.

Victimisation: Victimisation means subjecting or threatening to subject a person to any detriment because that person, or a person associated with that person has, or intends to, exercise their right to make a complaint under anti-discrimination laws or give evidence or information, or produce a document, in connection with a complaint process.

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Victimisation may occur when a person is threatened or treated in a detrimental way if they:

- Consider making / make a claim
- Act as a witness or in good faith bring to the attention of a person in authority an issue of concern or make an allegation of unlawful discrimination, sexual harassment as per the legislation
- Support a claimant

Vilification: Vilification is generally any act that happens publicly, that could incite others to hate, have serious contempt for, or severely ridicule an individual or group of people because of their religion or race. The motive or intention of a person alleged to have committed an act of vilification against another is irrelevant.

Unlawful conduct may include displaying posters, notices or other materials, damage to property, abusive or offensive comments or using the internet or email to publish or transmit statements or other materials.

4. Defining Bullying, Harassment and Discrimination

Behaviour

- All employees and volunteers will ensure that their behaviour is appropriate, and in accordance with relevant CA policies and procedures.
- Any person experiencing behaviour which they consider unwelcome has every right to request the behaviour to stop. Where possible, action should be taken to inform the offender in person or in writing that the behaviour is offensive, against CA policy and must cease immediately.

Managers and Supervisors

- Have a duty of care to prevent inappropriate behaviour occurring and to maintain the CA Code of Conduct.
- Are required to intervene, investigate and take action as appropriate when they see or are informed of inappropriate behaviour.

Contact Officers

Appropriate Contact Officers will be designated, with their main function to provide information and support to individuals who believe they are being discriminated against, harassed or bullied. It is not the role of a Contact Officer to resolve complaints, the contact officer in your workplace may be your direct supervisor or facility manager

Making a Complaint

- Bullying, harassment and discrimination complaints should be made to an employee's Supervisor. If the complaint is related to the Supervisor, the matter should be referred to the next level of management.
- You will not suffer any detriment in your employment from having made a complaint.

Complaints Resolution

- Whilst not seeking to exclude the right to make a complaint externally, the primary aim of an internal complaints process is to ensure that any offending behaviour stops.
- There are a number of ways of resolving complaints. The complaints resolution process can be broken down into the following four phases, which do not have to be sequential:
 - Right to say "stop"
 - Informal - advice from Contact Officer / Manager
 - Intervention - mediation and / or conciliation
 - Formal - investigation and determination

Confidentiality

- Confidentiality will be maintained to the extent that it is possible to do so, with complaints and personal information handled in accordance with CA Privacy Policy.
- Employees who are found to have breached confidentiality will face remedial and / or disciplinary action in accordance with the Performance Management Policy.

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Disciplinary Action

- Employees who are found to have breached this policy will face remedial and / or disciplinary action in accordance with the Performance Management Policy
- If employees are found to have made vexatious complaints, appropriate disciplinary action may be imposed.

Induction and Training

- During induction, all employees will read and understand the Bullying, Harassment and Discrimination Policy.
- Managers should implement training and awareness raising strategies to ensure that all employees are aware of their rights and responsibilities in relation to bullying, harassment and discrimination.
- Training and awareness raising strategies should be implemented to ensure Managers and Supervisors are promoting an environment free from bullying, harassment and discrimination and implementing the policy and procedures to deal with inappropriate behaviour in the workplace including bullying, harassment and discrimination.

Monitoring

- This policy and the associated procedure will be a core component of the mandatory refresher training and assessment outlined above.
- This policy will be included as a mandatory item for new employees and volunteers to read upon induction, as outlined above.
- CA may audit compliance with undertaking risk assessments and compliance with the induction and training principles of this Policy through the CA compliance system.

Reporting, Counselling & Support

“Employees that feel that they have been bullied, are advised NOT to ignore it.”

- CA has a process for making a complaint and resolving disputes (see the Staff Grievance Policy), which might include a warning, requiring the bully to have counselling, a mediation process, or even firing the bully if the situation continues.
- The person to talk to in the first instance might be your supervisor/line-manager, or the HR Manager.
- Should an employee feel safe and confident, they may wish to approach the person who is bullying them and tell them that their behaviour is unwanted and not acceptable. If an employee is unsure how to approach them, they may wish to get advice from a colleague or Manager.
- Should an employee not feel safe and confident and the employee shall make a complaint in writing to their Facility Manager. If there is not a person at the facility whom the employee feels safe talking and engaging with, they can report bullying, harassment and/or discrimination directly to:
 - CA Human Resources Manager
 - Manager from another Facility
- Employees are advised to keep a diary. Documenting everything that happens, including actions to try stopping it.
- Where required CA will provide independent professional post counselling services to effected employees.

“Employees are advised to gain support from someone they trust in the first instance.”

If an employee has made a complaint and they feel that adequate steps taken to stop the bullying have not been made, then there are a number of other external options they can take to get help.

- **Discrimination:** If you're seeking advice about discrimination based on personal characteristics, sexual harassment or racial or religious vilification, contact the Australian Human Rights Commission
- **Violence or Threats of Violence:** If your allegation of workplace bullying involves assault or threats of assault, contact your supervisor asap and consider also contacting NSW Police and inform them of the incident.
- **For Immediate Emotional Support:**
 - **Lifeline** / www.lifeline.org.au / 13 11 14 - offers a 24 hour confidential phone service providing emotional support in times of crisis or when callers may be feeling down -

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- **Beyondblue** / www.beyondblue.org.au / 1300 22 4636 - provides people with access to information for depression and anxiety related matters.
- Workplace Bullying: Employees who reasonably believe they have been bullied at work may apply to the Fair Work Commission for an order to stop the workplace bullying.

When to contact the police?

If bullying is violent or threatening it may be a criminal offense and you should contact the police immediately call 000. If the situation is not urgent you can call 131 444 for all states and territories except for Victoria where you will need to visit your local police station.

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CA Workplace Bullying Fact Sheet

Bullying can happen in any workplace. It can have an impact on an individual's health and affect their ability to do their job.

Workplace bullying is characterised by persistent and repeated negative behaviour directed at an employee that creates a risk to health and safety.

What is unlawful discrimination?

Under federal and state legislation, unlawful discrimination occurs when someone, or a group of people, is treated less favourably than another person or group because of their race, colour, national or ethnic origin; sex, pregnancy or marital status; age; disability; religion; sexual preference; trade union activity; or some other characteristic specified under anti-discrimination or human rights legislation.

Workplace discrimination can occur in:

- recruiting and selecting staff
- terms, conditions and benefits offered as part of employment
- who receives training and what sort of training is offered
- who is considered and selected for transfer, promotion, retrenchment or dismissal.

What is unlawful harassment?

Under federal and state legislation, unlawful harassment occurs when someone is made to feel intimidated, insulted or humiliated because of their race, colour, national or ethnic origin; sex; disability; sexual preference; or some other characteristic specified under antidiscrimination or human rights legislation. It can also happen if someone is working in a 'hostile' – or intimidating – environment.

Harassment can include behaviour such as:

- telling insulting jokes about particular racial groups
- sending explicit or sexually suggestive emails
- displaying offensive or pornographic posters or screen savers
- making derogatory comments or taunts about someone's race or religion
- asking intrusive questions about someone's personal life, including their sex life.

For more specific information about what may constitute unlawful discrimination or harassment see CA Policy Bullying, Harassment and Discrimination

The Nature of Harassment/ Discrimination

Harassing behaviour can range from serious to less serious levels, however one-off incidents can still constitute harassment. Also, where continued, such behaviour can undermine the standard of conduct within a work area, which may erode the well being of the individual or group being targeted and lead to lower overall staff performance.

The absence of complaints is not necessarily an indication that no harassment or discrimination is occurring. The person subjected to harassing or discriminating behaviour does not always complain. This is not necessarily because the act is trivial, but because the person may lack the confidence to speak up on their own behalf or feel too intimidated or embarrassed to complain.

Hostile Working Environment

Employers also need to be aware of their responsibilities to ensure that the working environment or workplace culture is not sexually or racially 'hostile'. Examples of a potentially hostile working environment are where pornographic materials are displayed and where crude conversations, innuendo or offensive jokes are part of the accepted culture. A person has the right to complain about the effects of a sexually or racially hostile working environment, even if the conduct in question was not specifically targeted at them.

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What Harassment/ Discrimination is not

Workplace harassment or discrimination must not be confused with legitimate comment and advice (including relevant negative comment or feedback) from managers and supervisors on the work performance or work related behaviour of an individual or group.

The process of providing feedback to staff during a formal performance appraisal, or counselling staff regarding their work performance, will not always be free of stress. Managers should manage these processes with sensitivity, but they should not avoid their responsibility to provide full and frank feedback to staff.

What is Workplace bullying?

One definition of workplace bullying is “the repeated less favourable treatment of a person by another or others in the workplace, which may be considered unreasonable and inappropriate workplace practice. It includes behaviour that intimidates, offends, degrades or humiliates a worker”.

Bullies usually utilise power attributed to their status, skills or position in the workplace, and both men and women can be the targets and/or the perpetrators. Workplace bullying can occur between a worker and a manager or supervisor, or between coworkers. Bullying behaviour can range from very obvious verbal or physical assault to very subtle psychological abuse. This behaviour may include:

- physical or verbal abuse
- yelling, screaming or offensive language
- excluding or isolating employees
- psychological harassment
- intimidation
- assigning meaningless tasks unrelated to the job
- giving employees impossible jobs
- deliberately changed work rosters to inconvenience particular employees
- undermining work performance by deliberately withholding information vital for effective work performance

Getting the Right Help

It's important to get the right help and, depending on your situation, it might be appropriate for you to seek advice from another agency. But it is important that you report issues to your supervisor or manager.

Your Rights at Work

If your complaint relates to a dispute about performance management or working conditions such as pay or hours of work, contact your supervisor.

Discrimination

If you're seeking advice about discrimination on the basis of personal characteristics, sexual harassment or racial or religious vilification, contact the Australian Human Rights Commission

Violence or Threats of Violence

If your allegation of workplace bullying involves assault or threats of assault, contact your supervisor asap and consider also contacting NSW Police and inform them of the incident.

For Immediate Emotional Support

- **Lifeline** / www.lifeline.org.au / 13 11 14- offers a 24 hour confidential phone service providing emotional support in times of crisis or when callers may be feeling down -
- **Beyondblue** / www.beyondblue.org.au / 1300 22 4636 - provides people with access to information for depression and anxiety related matters.

The Fair Work Commission and Workplace Bullying

From 1 January 2014, an eligible worker who reasonably believes they have been bullied at work may apply to the Fair Work Commission for an order to stop the workplace bullying.