

BULLYING, HARASSMENT AND DISCRIMINATION POLICY

VERSION CONTROL

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RELATED POLICIES AND PROCEDURES

Code of Conduct
Workplace Complaints and Grievance Policy and Procedure

1. PURPOSE

The purpose of this policy is to:

- outline the Australia and New Zealand School of Government's ("ANZSOG", "our", "us" or "we") policy on bullying, harassment and discrimination,
- set expectations to foster a workplace free of all forms of bullying, harassment, sexual harassment and discrimination,
- facilitate procedures to monitor and address reports or complaints of bullying, harassment and discrimination, and
- ensuring that all staff are treated with respect and dignity.

2. SCOPE

This policy applies ANZSOG-wide to all staff members, volunteers, contractors, directors, agents, and officers engaged by ANZSOG (Staff). It applies to all Staff when they are performing their role with ANZSOG, including when they are onsite or offsite, including work-related travel. It applies when Staff are working remotely, including working from home, and includes electronic communication. It will also apply when Staff are participating in events related to their role at ANZSOG, ANZSOG-organised events, and when representing ANZSOG in any capacity.

3. CONTEXT

At ANZSOG, we commit to taking reasonable measures to provide a working environment free from bullying, harassment and discrimination. It is also the responsibility of all Staff to ensure they do not participate in any bullying, harassing or discriminatory behaviour. We aim to take practicable steps to ensure our contractors provide a similar working environment.

We are dedicated to implementing a proactive approach by taking reasonable steps such as educating employees; as well as continuing to monitor behaviour and endeavouring to prevent inappropriate behaviour from occurring in the first instance, even in the absence of a formal dispute/grievance.

Where a report does arise, we will treat disputes confidentially, seriously and sympathetically as far as possible. However, it may be necessary to speak with other employees in order to determine what happened, to afford fairness to those against whom the complaint has been made and to resolve the complaint.

We are committed to providing an environment which is safe and free of discrimination, harassment and bullying for our employees and others with whom we associate at work. This policy has the full support and commitment of management. Please ensure you give your support in monitoring and avoiding practices, attitudes and traditions which lead to bullying, harassment or discrimination.

4. EXPECTATIONS OF BEHAVIOUR

The following section outlines what will be treated as discrimination, bullying and harassment. Where an individual at ANZSOG engages in any of the behaviour listed below, appropriate disciplinary action may be taken against them in accordance with policy, legislation or regulations.

Importantly, this policy will act alongside the expectations set out in the *Code of Conduct*.

While all Staff are expected to understand and act in accordance with ANZSOG's *Code of Conduct* and not engage in inappropriate workplace behaviour, more senior Staff have additional responsibilities.

Staff with team and functional management responsibilities are also expected to:

- Model ANZSOG values and maintain an ethical workplace environment.
- Deal promptly with inappropriate behaviour.
- Assist team members who may have experienced or exhibited inappropriate behaviour to resolve issues and prevent a recurrence.

The Executives are further responsible for creating and maintaining a workplace free from inappropriate workplace behaviour.

4.1. Discrimination

Direct discrimination is treating or proposing to treat a person with a protected attribute (listed below) unfavourably because of that attribute. The test is whether or not certain treatment was less favourable to the person claiming discrimination, placing emphasis on the consequences of the treatment on the person claiming direct discrimination because of a protected attribute.

Indirect discrimination can occur when there is a requirement or condition or practice that is the same for everyone but disadvantages a person or is likely to disadvantage a person because they have one or more protected attributes, and which is not reasonable.

Under the *Equal Opportunity Act 2010*, protected attributes include:

- age
- colour
- descent or national or ethnic origin
- disability/impairment
- industrial activity/inactivity
- lawful sexual activity/sexual orientation or preference
- gender identity
- marital status, including de facto
- physical features
- political belief or activity
- pregnancy/breastfeeding
- race
- religious belief or activity
- sex
- status as a parent or carer
- personal association with someone of the above attributes
- profession, trade or occupation
- irrelevant criminal conviction (under the *Australian Human Rights Commission Act 1986* (Cth)).

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
- any other unfavourable treatment (including sexual harassment).

Discriminatory conduct toward another person can include behaviour such as:

- telling insulting jokes about particular racial groups
- making derogatory comments or taunts about someone's race or religion
- seeking to force someone to retire owing to their age
- denying training or promotion opportunities to a female employee on the basis of her pregnancy or belief she will be pregnant soon (i.e., the belief the training spend or promotion would be 'wasted' for that employee whilst they then go on parental leave).

It is important to note that from a legal perspective it is irrelevant whether or not the discrimination was intended.

4.2. Sexual Harassment

Sexual harassment is unlawful under State and Federal legislation, including the *Sex Discrimination Act 1984* (Cth).

Employers in Australia have a positive duty to take reasonable measures to eliminate conduct that includes sexual harassment and harassment and/or discrimination on the grounds of sex.

Harassment on the grounds of sex is unwelcome conduct based on the sex of the person, but not necessarily sexual in nature.

Sexual harassment occurs when a person:

- makes an unwelcome sexual advance(s), or
- an unwelcome request for sexual favours to another person, or
- engages in any other unwelcome conduct of a sexual nature in relation to another person,

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. It has nothing to do with mutual attraction or consenting friendships, whether sexual or otherwise.

Sexual harassment is unlawful in the workplace, which includes any place a person goes for the purpose of carrying out any function related to their employment. The workplace can also extend to social functions.

Sex based harassment includes those who instruct, induce, aid, permit or otherwise assist sexual harassment towards another person.

Some examples of sexual harassment include:

- persistent, unwelcome demands or even subtle pressures for sexual favours or outings
- staring or leering at a person or at parts of their body
- unwelcome patting, pinching, touching or unnecessary familiarity, such as unnecessarily brushing up against a person
- offensive comments or questions about a person's physical appearance, dress or private/romantic life
- sexually explicit pictures or posters or screen savers (words and images)
- explicit or sexually suggestive telephone calls, letters, faxes, emails or voice mail messages
- humour such as smutty or suggestive jokes or comments, or asking intrusive questions about someone's personal life (including their sex life)
- innuendo, including sexually provocative remarks, suggestive or derogatory comments about a person's physical appearance, inferences of sexual morality, or tales of sexual performance
- requests for sex
- insults or taunts based on sex
- sexually explicit physical contact.

Some types of sexual harassment can also be offences under the criminal law, such as:

- physical molestation or assault
- indecent exposure
- sexual assault
- stalking
- obscene communications (by way of telephone calls, letters, emails etc.).

It is important to note that from a legal perspective, it is irrelevant whether or not the harassing behaviour was intended. Further, in Victoria specifically, co-workers can be named sole respondents in cases of alleged sexual harassment.

Who is protected from sexual harassment?

In the area of employment, sexual harassment is unlawful whether committed by or against:

- Employers or prospective employers;
- Employees;
- Contractors;
- Suppliers;
- Clients;
- Alumni;
- Unpaid workers such as volunteers, interns, and the self-employed; and
- Members of industrial organisations and qualifying bodies.

We expect all employees to play their part in promoting a safe and healthy workplace environment that promotes respect for one another. Employees should not be bystanders in inappropriate behaviour or behaviour that is unlawful and in breach of this policy.

In ensuring this positive duty is enforced, ANZSOG will be:

- conducting yearly risk assessments on sexual harassment in consultation with key personnel; and
- facilitating annual training on sexual and sex-based harassment to the entire workforce; and
- ensuring sexual harassment is considered as a key priority at all safety meetings.

4.3. Bullying

Bullying is a significant occupational health and safety issue, as it can cause harm to a person's health and wellbeing, both physical and psychological.

Employers have a primary legal duty to provide a healthy and safe workplace. Employees also have a responsibility to abide by safety standards and to cooperate with their employer's actions to ensure a healthy and safe workplace is maintained.

Bullying may also be unlawful under federal and state anti-discrimination legislation where the bullying is linked to, or based on, one of the attributes covered by the various pieces of legislation (for example, age, sex, race, disability, etc.).

In Victoria specifically, serious cases of bullying may also be illegal under the *Crimes Act 1958* (Vic) and can result in imprisonment of up to 10 years.

Workplace bullying is:

- repeated, unreasonable behaviour directed toward an employee, or group of employees,
- that creates a risk to health and safety.

"*Unreasonable behaviour*" means behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten the other person.

"*Behaviour*" includes actions of individuals or a group, and may involve using a system of work as a means of victimising, humiliating, undermining, punishing or threatening.

"*Risk to health and safety*" includes risk to the mental or physical health of the employee.

The following types of behaviour, where repeated or occurring as part of a pattern of behaviour could be considered to be workplace bullying:

- physical or verbal abuse
- intimidation
- yelling, screaming or offensive language
- excluding or isolating employees
- psychological harassment
- 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.

Other types of behaviour may also constitute bullying. Workplace bullying can occur between a worker and a line manager or supervisor, or between co-workers.

Bullying does not cover situations where an employee has a grievance about legitimate and reasonable:

- performance management processes
- disciplinary action
- allocation of work in compliance with systems.

4.4. Victimisation

Victimisation is unlawful under various anti-discrimination legislative instruments in Australia.

It is unlawful for a person to subject or to threaten to subject another person to any detriment because the other person has made a complaint or aired a grievance, or someone associated with the other person, has made an allegation or complaint of discrimination, harassment, or bullying.

As stated above, it is in the interest of ANZSOG and any person who believes they have been unlawfully discriminated against, sexually harassed, bullied, or victimised to take action to prevent the behaviour from recurring. Therefore, we seek to encourage, as far as is reasonably possible, individuals feeling comfortable 'coming forward' and bringing issues and complaints to the attention of ANZSOG management.

Therefore, any person found to be engaging in victimisation against another will be treated in a serious manner, and subject to disciplinary action.

5. PROCEDURE TO REPORT BULLYING, HARASSMENT AND DISCRIMINATION

It is in the interest of ANZSOG and any person or group who believe they have been unlawfully discriminated against, sexually harassed, bullied, or victimised to take action to prevent the behaviour from recurring.

We believe that all disputes and issues of concern should be resolved quickly, confidentially (where possible) and wherever possible, at the lowest appropriate level. A range of internal issue resolution options are available including:

- self-resolution
- informal resolution by a line manager or Director HR
- local workplace resolution involving mediation and conciliation
- formal investigation/assessment by either the Director HR or an external provider.

What can you do if you are being discriminated against?

If you consider you have been discriminated against, bullied or harassed it should be dealt with and should not be ignored as ignoring the behaviour could be taken as tacit consent.

Anybody who experiences or witnesses discrimination, harassment or bullying is encouraged to either:

- inform the offender that the behaviour is offensive and unacceptable and against company policy; or
- seek assistance in having the behaviour stopped. This may include reporting the issue to your line manager or the Director HR.

Where these issues may breach occupational health and safety laws the incident should also be reported immediately to your line manager, or to the Director HR where it is inappropriate to report it to your line manager.

Who can assist you in making a report or complaint?

If you feel that you are unable to resolve the matter yourself, the following people will be able to assist you:

- Your line manager;
- Director HR;
- Dean and CEO;
- External hotline, Stopline

Stopline can be contacted by:

- Telephone: 1300 30 45 50 (Australia only)
- Email: makeareport@stopline.com.au On-line: <https://anzsog.stoplinereport.com>
- Mail: Australia and New Zealand School of Government (ANZSOG) c/o Stopline, PO Box 403, Diamond Creek, VIC 3089

5.1. Resolution of Disputes and Issues of Concern

What will happen if you make a Report or Complaint?

Any complaints or reports of discrimination, harassment or bullying will be treated quickly, seriously and sympathetically. Complaints, grievances, and reports will be dealt with as per our *Workplace Complaints and Grievance Policy and Procedure*.

Reports will be investigated thoroughly, impartially, and where possible, confidentially (when investigating some complaints confidentiality is not always possible). Line managers must act immediately on any reports of bullying, harassment, or discrimination. Employees will not be disadvantaged in their employment conditions or opportunities as a result of lodging a complaint.

What will happen to the person against whom you have made a complaint?

Management considers all forms of workplace discrimination, harassment and bullying to be unacceptable behaviour which will not be tolerated. Accordingly, where such complaints have been substantiated, appropriate disciplinary action will be taken. Such action may range, based on severity of the complaint, from a formal warning to termination of employment for serious breaches of this policy.

Similarly, where necessary, action will be taken against anyone including employees or independent contractors, who have been found to have discriminated against, harassed or bullied a co-worker, or any other person during the course of their employment or contract for services with us.

5.2. Natural Justice

A complaint of discrimination, harassment and/or bullying is a serious allegation to bring against someone. For this reason, while advisers may have feelings of sympathy for the complainant, and quite possibly negative feelings towards the respondent when dealing with a complaint, it is crucial to continually bear in mind the rights of the respondent as determined by the principles of natural justice. The adviser must approach the problem with neutrality.

5.3. Defamation

Defamation is unlawful under the *Defamation Act 2005* (Cth) and common law. A person should not be deterred from making a complaint of harassment by concerns about defamation laws. Generally, if a complainant only discusses the complaint with appropriate people in the workplace (managers/human resources/contact officers) and is acting in good faith (i.e., is not making the complaint out of spite or malice or without basis), then the person will not be liable for defamation.

6. BREACH OF POLICY

Any breach of this Policy may result in disciplinary action up to and including termination of employment.

Independent contractors and other non-employees who are found to have breached this policy may find their contract or engagement with us is terminated as a result.

If an individual's conduct results in a breach under law, they may also be personally liable.