

# HRM001: Workplace Bullying and Harassment Policy

## Objectives

Club Taree is committed to creating a safe and harmonious environment which promotes good working relationships, and eliminating all forms of workplace discrimination, harassment and bullying, through:

- Maintaining an appropriate level of awareness of what constitutes unacceptable behaviour in the workplace
- Ensuring that everyone is aware of their rights and responsibilities relating to workplace discrimination, harassment and bullying
- Annual anti-bullying training for all employees
- Providing everyone with details of the processes for investigating and resolving complaints

Club Taree has zero tolerance towards deliberate bullying, harassment or discrimination.

## Scope

This policy applies to all employees, trainees, work experience students and volunteers (from now on referred to as workplace participants) of Club Taree. It covers bullying, harassment and discrimination from colleagues, managers, directors, Club members, Club customers, suppliers, contractors and sub-contractors – in short, any person who a workplace participant might interact with because of their work, study or volunteering at Club Taree.

This policy covers workplace participants on duty at Club Taree and also present at Club Taree staff social events, at conferences, training seminars, work lunches, Christmas parties and client functions.

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This policy applies to behaviours that occur in connection with work, even if it occurs outside normal working hours.

It also applies on social media where Members, Workers, Volunteers, Consumers and Contractors may affect others either directly or indirectly.

## Definitions

### What is bullying?

A workplace participant is bullied at work if:

- a person or group of people repeatedly act unreasonably towards them or a group of workplace participants
- the behaviour creates a risk to health and safety.
- Unreasonable behaviour includes victimising, humiliating, intimidating or threatening. Whether a behaviour is unreasonable can depend on whether a reasonable person might see the behaviour as unreasonable in the circumstances.

Examples of bullying include:

- behaving aggressively
- teasing or practical jokes
- pressuring someone to behave inappropriately
- excluding someone from work-related events or
- unreasonable work demands
- repeated undermining of a person's position or authority
- derogatory, implicit or implied comments and posts on social media
- deliberate public embarrassment
- Intimidation

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## What isn't bullying?

Reasonable management action that's carried out in a reasonable way is not bullying. An employer or manager can:

- make decisions about poor performance
- take disciplinary action
- direct and control the way work is carried out.

Management action that isn't carried out in a reasonable way may be considered bullying.

## What is Workplace Harassment?

Harassment is any form of behaviour that is unwelcome, unsolicited, unreciprocated and usually (but not always) repeated. It is behaviour that is likely to offend, humiliate or intimidate. It can make it difficult for effective work to be done by the individual or groups targeted or affected by this behaviour.

For harassment to occur there does **not** have to be an intention to offend or harass. It is the impact of the behaviour on the person who is receiving it, together with the nature of the behaviour, which determines whether it is harassment.

Further, 'workplace' in this context is defined to include not only the usual work environment, but also work related events such as seminars, conferences, work functions, Christmas parties, and business trips.

Some examples of workplace harassment might include:

- offensive physical contact, derogatory language or intimidating actions
- insulting or threatening gestures or language (overt or implied) or continual and unwarranted shouting in the workplace
- unjustified and unnecessary comments about a person's work or capacity for work
- openly displayed pictures, posters, graffiti or written materials which might be offensive to some
- phone calls or messages on electronic mail or computer networks which are threatening, abusive or offensive to employees or other interested parties

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- persistent following or stalking within the workplace, or to and from work
- the exclusion of a person or group from normal conversations, work assignments, work related social activities and networks in the workplace

Workplace harassment should not be confused with legitimate comment and advice on the work performance or work-related behaviour of an individual or group. However, feedback and counselling should always be carried out in a constructive way that is not humiliating or threatening, and that is consistent with the performance management process.

### What is Sexual Harassment?

Sexual harassment is any unwanted, unwelcome or uninvited behaviour of a sexual nature that is likely to offend, humiliate or intimidate.

Sexual harassment can take many forms and may include:

- belittling jokes or comments based on gender stereotypes
- behaviour which insists that gender stereotypes be maintained and exercised in the workplace
- uninvited touching, kissing or embracing
- making promises or threats in return for sexual favours
- displays of sexually graphic material including posters, cartoons and screen savers
- repeated invitations to go out after prior refusal
- staring or leering at a person or parts of their body
- sexually explicit conversation
- persistent questions or insinuations about a person's private life
- any behaviour that creates a sexually hostile work environment

Behaviour that is based on mutual attraction and that is consensual, welcome and reciprocated is not sexual harassment.

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## What is Discrimination?

Discrimination occurs in the workplace when an employer takes **adverse action** against a workplace participant, or potential workplace participant because of a protected attribute.

Protected attributes are:

- Gender, race, colour, nationality, descent, ethnic, ethno-religious and national origin
- Sex, pregnancy or potential pregnancy and breastfeeding
- Age, being too young or too old or forced retirement based only on age
- Marital or domestic status
- Sexual orientation
- Physical or intellectual disability, mental illness, learning disability, behavioural disorder, changed or different body parts and any virus or bacteria in the body that could cause disease or illness (such as HIV)
- Transgender (transsexual) status
- Carer's responsibilities
- Discrimination because of who you are related to, or who you associate with: when you are treated unfairly because of the sex, pregnancy, breastfeeding, race, age, marital or domestic status, homosexuality, disability, transgender status or carer's responsibilities of one of your relatives, friends or associates.

Vilification is also classed as discrimination.

Vilification is any public act that could incite or encourage hatred, serious contempt or severe ridicule. In NSW it is against the law to vilify people because of their race, homosexuality or transgender status, or because they have HIV/AIDS.

Public acts could include remarks in the media or on the internet, graffiti, posters, verbal abuse, speeches, badges and clothing with slogans on them. The vilification law does not cover acts that are not public, for example abuse over a back fence that no-one else can hear.

**Adverse action is:**

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- firing an employee
- injuring the employee in their employment, eg. not giving an employee legal entitlements such as pay or leave
- changing an employee's job to their disadvantage
- treating an employee differently than others
- not hiring someone
- offering a potential employee different and unfair terms and conditions for the job compared to other employees.

Discrimination can happen:

- to someone applying for a job as an employee
- to a new employee who hasn't started work
- to an employee at any time during employment

### What isn't discrimination?

Adverse action isn't always discrimination, even though it might seem to be. There can be lawful reasons that have nothing to do with someone's personal characteristics.

It's not discrimination if the actions:

- are allowed under state or federal anti-discrimination law
- do not relate to one of the protected attributes
- relate to the necessary requirements of the job (ie not hiring a 17 year old as a bar tender)

## Effects of Bullying and Harassment in the Workplace

Workplace bullying and harassment can seriously harm worker mental health with anxiety, depression, stress and emotional exhaustion being common outcomes for bullied workers. The mental and physical health implications can be long term, and there is an increasing awareness of suicide caused by bullying and harassment.

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Outcomes can also adversely impact the workplace with workers taking sick leave and being less productive when present (presenteeism), both of which damage productivity.

## Legal Implications

Discrimination and harassment are against the law in NSW and throughout Australia. People committing discrimination and harassment are breaking the law and can be prosecuted. Companies allowing, or not taking action against discrimination and harassment, are breaking the law and can be prosecuted.

Bullying comes under Work, Health and Safety Regulations. People committing bullying can incur fines from WorkCover NSW. Companies and company officers allowing or not taking action against bullying can incur fines from WorkCover NSW. WorkCover can also initiate prosecutions against individuals, company officers and companies.

## Roles and Responsibilities

All workplace participants have the responsibility to monitor their own conduct and to maintain appropriate, inclusive and respectful standards of behaviour. Further, all workplace participants must:

- Be aware of Club Taree's policies and procedures
- Be aware of the issues of discrimination, harassment and bullying, of the forms they can take and of the damage they can cause to people and organisations
- Complete all required training within timescales specified
- Speak out against discrimination, harassment and bullying if observed

Managers have additional responsibilities and are expected to (in addition to above):

- Model exemplary, professional, respectful behaviour
- Be proactive in the application of Club Taree's policies and procedures
- Take action to stop discrimination, harassment and bullying immediately it is observed

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- Encourage employees to report instances of discrimination, harassment and bullying via the grievance procedure
- Follow the grievance procedure promptly, seriously and with sensitivity in each instance

## Procedure

If you feel you are being bullied, harassed or discriminated against, do not ignore it and hope it goes away, or think that it's just something you have to put up with. It isn't – you have the right to a safe and fair workplace. You have the right to feel comfortable and happy about coming to work and be treated fairly and with respect.

If you feel comfortable talking to the party who is harassing, bullying or discriminating against you, tell them their behaviour is not acceptable and ask them to stop.

If the person harassing, bullying or discriminating against you is a Club member or customer you should report it immediately to the Customer Service Manager (CSM) or your Department Head. Club Taree will not tolerate any harassment, bullying or discrimination against its staff and will support them 100%.

If you do not feel comfortable talking to the other party, or you have and their behaviour has not changed, you need to follow the Club's Grievance Procedure and raise a grievance.

If the behaviour is more than a one-off, it is extremely helpful if you keep a diary or brief notes of incidents with dates, times and what was said/done, even if you are not sure at that point that you wish to raise a grievance.

You can approach a colleague or Human Resources for support at any time, but please don't mention or gossip (or allow them to) about allegations of discrimination, harassment or bullying as this can interfere with investigations and also possibly be considered bullying in itself.

## Victimisation

Victimisation means subjecting or threatening to subject a person to some form of detriment because they have:

- lodged, or is proposing to lodge, a complaint of discrimination, harassment or bullying

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- provided information or documents to an internal investigation or an external agency
- attended a conciliation conference
- reasonably asserted their rights, or supported someone else's rights, regarding discrimination, harassment or bullying
- made an allegation that a person has acted unlawfully under anti-discrimination laws.

Victimisation is against the law. It can also be a criminal offence. Club Taree will never victimise anyone who raises a genuine grievance.

## Breach of Policy

All workplace participants are required to comply with this policy at all times. If an employee breaches this policy they may be subject to counselling and/or disciplinary action, which in serious cases could mean termination of employment.

Agents, contractors and subcontractors who are found to have breached this policy may have their contracts with Club Taree not renewed or even terminated.

Any other person found to have breached this policy may have their contact or entry right with Club Taree limited or withdrawn.

## Reference Materials:

- Club Taree Human Resources Manual Grievance Policy and Procedure
- Club Taree WHS Manual Bullying Policy and Procedure
- Australian Human Rights Commission 1300 656 419 [infoservice@humanrights.gov.au](mailto:infoservice@humanrights.gov.au)
- Anti-Discrimination Board of NSW 1800 67 812 [adbcontact@justice.nsw.gov.au](mailto:adbcontact@justice.nsw.gov.au)
- SafeWork NSW 13 10 50 [contact@safework.nsw.gov.au](mailto:contact@safework.nsw.gov.au)

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