

**Positive Duty to Prevent Sex-Based Harassment**

**Policy**

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1. Purpose:

Sexual harassment and sex or gender-based harassment is unlawful and prohibited by both state and territory discrimination laws and the *Sex Discrimination Act 1984 (Cth).*

This Policy outlines BLU by Adcorp’s commitment to:

* Creating a safe workplace culture that is focused on equality and respect, which supports people to take bystander action and takes a zero-tolerance approach to sexual harassment, sex-based harassment, and behaviour that may result in a hostile workplace environment and victimisation.
* A work environment that is free from all forms of sexual harassment.
* The establishment of a safe and supportive complaints procedure.
* Ensuring any workers who make a complaint about sexual harassment, sex-based harassment or other unlawful conduct, or take bystander action in response to inappropriate behaviour will be protected from victimisation.

It is the obligation and responsibility of everyone working at BLU by Adcorp to treat others with dignity, courtesy and respect and ensure that the workplace is free from sexual harassment, sex-based harassment, and behaviour that may result in a hostile workplace environment and victimisation.

BLU by Adcorp also has a positive duty to eliminate the risk of discrimination on the ground of sex, sexual harassment, sex-based harassment, a hostile workplace environment and victimisation so far as is reasonably practicable. This policy is part of BLU by Adcorp's strategy for preventing and eliminating sexual harassment in the workplace.

**1.1 What is Positive Duty?**

The positive duty under the *Sex Discrimination Act* requires organisations and businesses to take ‘reasonable and proportionate measures’ to eliminate, as far as possible:

* discrimination on the ground of sex in a work context.
* sexual harassment in connection with work.
* sex-based harassment in connection with work.
* conduct creating a workplace environment that is hostile on the ground of sex.
* related acts of victimisation. and related unlawful conduct as far as possible.

In this Policy, the conduct covered by the positive duty is referred to as ‘relevant unlawful conduct.

This proactive stance aims to prevent harassment from occurring in the first place, creating safer and more respectful workplaces.

* 1. **Zero Tolerance:**

BLU by Adcorp takes a ‘zero tolerance’ approach to relevant unlawful conduct.

BLU by Adcorp encourages any worker who believes that they have been subjected to or have witnessed relevant unlawful conduct to report the behaviour.

Zero tolerance means we will take appropriate and proportionate action and consequences, considering an offender’s behaviour and the impact of their actions. However, zero tolerance does not mean we will respond in the same way to every incident, for example, through automatic dismissal.

1. Who this policy applies to:

This policy applies to all workers engaged by BLU by Adcorp, which includes, but is not limited to:

* Business owners and board members
* Managers, supervisors, team leaders
* All current or prospective employees (full-time, part-time, fixed term, and casual)
* Clients, customers
* Agency on-hire staff, labour-hire workers
* Contractors, sub-contractors and secondees
* Consultants, commission agents
* Student placements, apprentices, work experience students/interns
* Volunteers and anyone working in an unpaid capacity
* Any other workers

All workers must comply with this policy as amended from time to time. While every worker is required to comply with this policy, this policy is not incorporated as a term of any employment contract or contract for services. It does not create any rights enforceable by a worker against BLU by Adcorp.

This policy is made available to any stakeholder’s employees may come into contact with including clients and customers. BLU by Adcorp expects all stakeholders to comply with this policy.

The law will prevail to the extent that there is an inconsistency between the law and this policy.

1. When this policy applies:

This policy applies when workers are:

* working at BLU by Adcorp (including working from home) during or outside normal working hours;
* performing functions in connection with or in relation to their work (e.g. lunch breaks, after work drinks, social functions, conferences, travelling to work jobs, at accommodation whilst travelling for work, at work functions and events);
* working on behalf of or acting in an official capacity for BLU by Adcorp, including when providing a service to clients and when interacting with members of the public;
* performing work activities off site (e.g. at other offices, client/customer work sites);
* out of work hours interaction where there is a connection to work; and
* using social media and other electronic communication (e.g. email, text message) (this is the case for use of social media professionally or personally, in the workplace and after hours where there is a connection with work e.g. between work colleagues).

1. WHAT IS SEX DISCRIMINATION?

Sex discrimination is when someone is treated unfairly, or is unreasonably disadvantaged, because of their sex, or a characteristic that is generally associated with people of that sex.

Anyone can experience sex discrimination regardless of their sex, gender identity or sexual orientation.

Sex discrimination is unlawful in advertising jobs, during recruitment and selection processes, as well as when making decisions about terms and conditions, benefits, training, transfer and promotion opportunities.

Examples of behaviour in a work context that could be sex discrimination include, but are not limited to:

* offering women and men different rates of pay for doing the same job.
* not providing women and men with the same opportunities for training, mentoring or promotion.
* dividing up work tasks based on sex, including because it has always been done by ‘one of the girls’.

1. What is sexual harassment:

Sexual harassment means an unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature which a reasonable person would anticipate makes the recipient feel offended, humiliated and/or intimidated.

A working environment or workplace culture that is sexually permeated or hostile can also amount to unlawful sexual harassment (e.g. the display of obscene or pornographic materials, general sexual banter, crude conversation or sexual innuendo and offensive jokes).

Sexual harassment in the workplace may be physical, spoken, non-verbal, written or image-based and may include, but is not limited to:

* Unwelcome physical contact of a sexual nature;
* Comments or questions of a sexual nature about a person’s private life or their appearance;
* Sexually suggestive behaviour, such as leering or staring or offensive gestures;
* Suggestive sounds or facial expressions such as winking, licking lips, throwing kisses, howling, smacking of lips;
* Brushing up against someone, touching, fondling or hugging;
* Sexually suggestive comments or jokes;
* Displaying offensive screen savers, photos, calendars or objects;
* Repeated invitations to go out on dates;
* Unwanted displays, declarations of affection or personal gifts;
* Repeated invasion of personal space or blocking someone’s path;
* Requests for sex or sexual acts;
* Sexually explicit emails, text messages or posts on social networking sites;
* Sexual assault, indecent exposure, physical assault and stalking (which are also criminal offences); and
* Actions or comments of a sexual nature in a person’s presence (even if not directed at that person).
  1. **Threshold:**

There is no requirement that the unwelcome conduct be repeated; a one-off incident can be sexual harassment. Equally, a broader pattern of behaviour can constitute sexual harassment.

Sexual harassment can still occur even when a harasser does not intend it. Motive is irrelevant; the

test focuses on how the behaviour is received by the other person and if it is unwelcome.

Just because someone is not objecting to inappropriate conduct in the workplace when it happens is not tantamount to giving consent for the behaviour or acquiescing to its repetition in the future.

* 1. **Sexual Harassment and Technology and Social Media:**

Sexual harassment can occur through electronic channels (such as emails, text messages, instant message or by viewing websites) and through social media, irrespective of whether it occurs

during work hours or not. Where there is ‘a connection’ to your employment, you are subject to the same rules about sexual harassment in the virtual world as you are in the real world.

You are therefore required to use technology and social media in a responsible manner at the workplace and in connection with anything or anyone associated with the workplace. This obligation applies to your use of technology and social media outside of work hours where there is a connection to your employment.

1. What is sex or Genderbased harassment:

Sex or gender-based harassment is any unwelcome conduct of a demeaning nature because of a person’s sex, in circumstances which a reasonable person would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

Examples of sexual harassment include, but are not limited to:

* making inappropriate comments and/or jokes about a person based on their sex (e.g. joking about a woman being ‘hormonal’ based on her menstrual cycle or experience of menopause, or criticising a male teacher’s ability to teach because he is a man);
* asking intrusive personal questions based on a person’s sex;
* displaying images or materials that are sexist, misogynistic (strongly prejudiced against women) or misandrist (strongly prejudiced against men);
* making sexist, misogynistic or misandrist remarks about a specific person;
* requesting a person to engage in degrading conduct based on their sex.

There is no requirement that the unwelcome conduct be repeated, a one-off incident or comment can be sex-based harassment.

The motive of the person who engaged in sex-based harassment is irrelevant. It also does not matter if other workers or colleagues wouldn’t have been offended, humiliated or intimidated by the behaviour, only the person to whom the conduct was directed towards needs to have found it unwelcome.

1. What is a hostile workplace environment?

A hostile workplace environment on the ground of sex is one where a reasonable person having regard to all the circumstances would have anticipated the possibility that a person’s behaviour that has occurred or is occurring would result in the workplace environment being offensive, intimidating or humiliating to another person by reason of their particular sex or a characteristic associated with their sex.

For a workplace to be a hostile workplace environment on the ground of sex, the behaviour does not need to have been directed towards any particular person in the workplace and it does not need to have actually resulted in an individual being offended, humiliated or intimidated. The inappropriate behaviour from the person must just have had the possibility of making the person feel unwelcome or excluded by the workplace environment by reason of their sex or a characteristic associated with their sex.

There is no requirement that the conduct is repeated, a one-off incident or comment can be sex-based harassment. For example if obscene materials are displayed in the work force.

Examples of conduct that could create a hostile workplace environment include but are not limited to:

* Conduct involved gendered stereotypes, such as making women workers responsible for cleaning the office
* Making demeaning comments about topics such as pregnancy, menstruation or menopause
* Displaying or circulating obscene or pornographic materials
* making sexist, derogatory, suggestive or sexual comments, jokes and banter

Depending on the circumstances, these behaviours may also amount to other unlawful conduct, such as sexual harassment or sex-based harassment.

1. Reporting:
   1. **Who Can Raise a Complaint?**

BLU by Adcorp strongly encourages workers to raise concerns or make a report or complaint, if they believe there has been a breach of BLU by Adcorp’s Sexual Harassment Policy, whether they experience, witness, or become aware of inappropriate behaviour occurring in the workplace.

All reports of sexual harassment, sex-based harassment, hostile workplace environments and victimisation will be taken seriously and treated confidentially (to the extent possible).

* 1. **How to Raise a Complaint:**

Workers should raise any concerns or complaints related to breaches of this policy with the BLU by Adcorp HR Manager.

Where the BLU by Adcorp HR Manager is unavailable or it is not appropriate for them to be involved in the process, a complainant should contact the HSEQ Manager.

Workers may raise concerns or complaints verbally or in writing. Depending on the nature of the complaint, a complainant may be asked to document the complaint in writing (e.g. in an email or formal written complaint).

In cases of sexual assault, indecent exposure, stalking, obscene communications or any other criminal conduct, workers are encouraged to make a report to the police. If the assault occurred in the workplace, BLU by Adcorp may be required to report the matter to police. Workers are encouraged to report the incident to the BLU by Adcorp HR Manager regardless of whether a report is made to the police or not.

* 1. **Anonymous Complaints:**

In some situations, a complainant or witness may wish to request to remain anonymous and where appropriate, anonymity will be provided.

It may however not be possible in all circumstances to keep the identity of a person, or people providing information, confidential. In some situations, it may be the case that a respondent may need to be provided with the full details of allegations, including complainant and witness details, when consideration of procedural fairness and natural justice are taken into account.

* 1. **Bystander Intervention:**

Bystanders who witness or are aware of sexual harassment, sex-based harassment, behaviour creating a hostile workplace environment or victimisation occurring, can play an important role in preventing such inappropriate behaviour in the workplace.

In order to promote a safe, equitable and respectful workplace, BLU by Adcorp encourages all workers to take bystander action to:

* provide support to individuals who are being subjected to sexual harassment, sex-based harassment, a hostile workplace environment or victimisation;
* formally or informally challenge concerning behaviour witnessed; and
* report all incidents of sexual harassment, sex-based harassment, behaviour resulting in a hostile workplace environment and/or victimisation that they witness or hear about in the workplace.

BLU by Adcorp will not tolerate any victimisation, bullying, harassment or intimidation against those who take bystander action.

* 1. **Confidentiality:**

Where possible and appropriate, disclosures/complaints of sexual harassment, sex-based harassment, behaviour resulting in a hostile workplace environment and victimisation to BLU by Adcorp will remain confidential to the extent possible, taking into account BLU by Adcorp obligation to provide a safe workplace, afford natural justice to the respondent and require disciplinary action.

Workers who are directly involved with a complaint or an accompanying investigation must maintain confidentiality. A failure to do so may result in disciplinary action.

* 1. **Victimisation:**

Victimisation involves retaliatory action or the threat of such action because they have lodged a complaint, they intend to lodge a complaint, or they are involved in a complaint of unlawful conduct.

Examples of behaviour that could amount to victimisation include but are not limited to:

* Intimidating or threatening a worker to prevent them from making a complaint.
* Dismissing, or threatening to dismiss someone who has made a complaint.
* Denying a promotion to a person because they reported that someone in the workplace sexually harassed them.
* Ostracising or excluding someone from the workplace because they appeared as a witness in support of a colleague who made a complaint of sexual harassment.

Victimisation is unlawful and will not be tolerated at BLU by Adcorp*.* Any person found to victimise, harass or take reprisal action against individuals participating in procedures associated with this policy may be subject to separate disciplinary action.

Any incidents of victimisation should be immediately reported to the BLU by Adcorp HR Manager.

* 1. **Support:**

Being involved in a workplace sexual harassment, sex-based harassment, hostile workplace environment incident or investigation can be stressful, difficult, and traumatic and there is no right or wrong way to respond.

If you are involved in a complaint, there are a range of support and advisory services that can provide you with free and confidential support should you need it.

BLU by Adcorp will endeavour to provide you with the contact details of support services you may be able to access if required. Workers are also encouraged to ask for support if needed. Requests for support will be kept confidential.

1. Complaint handling procedure:

If any worker feels they have been subjected to any form of sexual harassment, sex-based harassment, a hostile workplace environment or victimisation, or is a witness to such behaviour they should not ignore it. BLU by Adcorp has a complaint procedure for dealing with these matters.

* 1. **Process:**

The complaint handling process may differ depending on the nature of the concern or problem regarding behaviour in breach of this Policy.

BLU by Adcorp takes a person-centred and trauma-informed approach to address relevant unlawful conduct including recognising and respecting individuals’ needs and ability to make choices for themselves.

This does not always mean that the person’s requests will be followed, however, genuine consideration will be given to the request and the impact of decisions on them.

BLU by Adcorp is committed to keeping complainants informed throughout the process and ensuring that all complaints are handled promptly and that the complaint resolution process is conducted without undue delay.

Self-help Approach (if appropriate):

If a worker feels comfortable doing so, they may address an issue with the person concerned directly. A worker should identify the offensive behaviour, explain that the behaviour is unwelcome and offensive, and ask that the behaviour stop.

In some instances, informing the instigator that their behaviour is inappropriate and unwelcome, and asking for it to stop may be sufficient, particularly if the individual was unaware of the impact of their behaviour.

Informal Process:

In some instances, it may be appropriate to address a report of sexual harassment at a local level, such as conducting or facilitating discussions to address the behaviour, or refresher training for the general work area on the requirements of this policy.

Informal processes emphasis resolution rather than factual proof or substantiation of a complaint.

The informal complaint procedure is better suited to less serious allegations that if founded, would not warrant disciplinary action being taken.

Formal process:

In other cases, a more formal approach may be appropriate. Formal processes typically involve investigating the report, making a finding, and deciding on an appropriate outcome. Formal processes can be conducted internally or can involve external assistance appointed by BLU by Adcorp*.*

If BLU by Adcorp considers it appropriate for the safe and efficient conduct of an investigation, workers may be required not to report for work during the period of an investigation. BLU by Adcorp may also provide alternative duties or work during the investigation period. Generally, employees will be paid their normal pay during any such period.

* 1. **Possible Outcomes/Findings:**

Each case will be assessed and determined on its own merits.

A substantiated report of sexual harassment, sex-based harassment or behaviour subjecting another person to a hostile workplace environment may result in a number of outcomes against a worker, as detailed in section 10.

1. Workers Rights and Responsibilities:

All workers must:

* understand and comply with this Policy;
* ensure they do not engage in sexual harassment, sex-based harassment, behaviour which subjects another person to a hostile workplace environment, victimisation or any other unlawful conduct towards other workers, customers/clients or others with whom they come into contact with through work;
* ensure they do not aid, abet or encourage other persons to engage in unlawful conduct that constitutes sexual harassment, sex-based harassment, subjects a person to a hostile workplace environment or victimisation;
* follow the reporting and complaint procedure in this Policy if they experience any unlawful conduct;
* report any unlawful conduct they see occurring to others in the workplace which is in breach of this policy;
* maintain confidentiality if they are involved in the complaint procedure.
  1. **Claims Without Substance:**

BLU by Adcorp encourages the reporting of behaviours that the worker genuinely believes to be sexual harassment, sex-based harassment, subjecting a person to a hostile workplace environment or victimisation.

If a complainant or witness is however found to have made a false claim (knowingly provided false claim, or knowingly made false allegations) they may be subject to separate disciplinary action, up to and including termination of employment.

1. Failure to comply:

Sexual harassment, sex-based harassment, behaviour which subjects another person to a hostile workplace environment and victimisation at work are all forms of serious misconduct.

Failing to comply with this policy at any time may lead to disciplinary action, up to and including termination of employment.

Agents and contractors (including temporary contractors) who are found to have breached this Policy may have their contracts with BLU by Adcorp terminated or not renewed.

Non-compliance with this policy may also breach applicable anti-discrimination, equal employment opportunity or health and safety laws and may result in legal proceedings being commenced against the individual. In the event of legal proceedings, individuals may be exposed to legal costs, penalties, orders to pay compensation and even imprisonment is some circumstances.

Workers, who cause, instruct, induce, aid, abet, or encourage or permit other persons to engage in unlawful conduct, can also be legally liable.

1. Variations:

BLU by Adcorp reserves the right to vary, replace or terminate this Policy at any time.

1. Related policies:

PO-004 Anti-Discrimination Policy Statement

PO-005 Workplace Bullying Policy Statement

PO-008 Code of Conduct Policy Statement

PO-010 Privacy Policy Statement

PO-022 Equal Opportunity Policy Statement

1. Additional information, support and advice:

The following advice and support options are available **BLU by Adcorp - Employee Assistance Program (EAP)**

Acacia Connection (EAP) offers a short-term, confidential counselling service designed to provide a problem-solving, solution-oriented approach to support employees with personal or work-related issues.

The EAP is staffed by independent, qualified practitioners. All employees have access to the EAP, which provides a limited number of counselling sessions at no cost to the employee. These sessions can be over the phone or face-to-face. Managers and supervisors can access Manager Assist through the EAP to help with workplace issues.

Contact *Acacia Connection EAP* by calling 1300 364 273 or sending an SMS to 0401 33 77 11. Alternatively, visit their website at www.acaciaconnection.com or email [info@acaciaconnection.com](mailto:info@acaciaconnection.com).

**External support**

An employee may wish to access external support services, such as:

* **1800RESPECT** - 1800RESPECT provides information, referral and counselling services to people experiencing or at risk of experiencing sexual assault or domestic or family violence. It is also available to friends, family and professionals. 1800RESPECT provides a confidential service 24 hours a day, seven days a week. You can contact 1800RESPECT by visiting [www.1800respect.org.au](http://www.1800respect.org.au) or calling 1800 737 732.
* **Centres Against Sexual Assault** - Centres Against Sexual Assault are non-profit, government-funded organisations that provide support, counselling, and crisis care to child and adult victims of sexual assault and their families. You can find your local centre by visiting [www.casa.org.au](http://www.casa.org.au).
* **Lifeline** - Lifeline is a national charity providing all Australians experiencing a personal crisis with access to 24-hour crisis support and suicide prevention services. You can contact Lifeline by visiting [www.lifeline.org.au](http://www.lifeline.org.au),calling 13 11 14, or texting 0477 13 11 14

**People and Culture Representatives**

If you have a query about this policy or would like to raise a concern or complaint, please contact the BLU by Adcorp People and Culture Manager Culture who is responsible for the following:

- Providing advice regarding matters covered by this policy

- Assisting employees and managers in understanding their roles and responsibilities

- Conducting reviews and/or engaging an independent external reviewer to do so

- Assisting in assessing whether a report of sexual harassment requires action under a different process.

Approved by

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**Zebulun Riddell**

Managing Director

June 2025

**Document Control**

**Approval**

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*Note: This document has been approved electronically within the BLU by Adcorp Policy & Process Library*

**Document History**

The following table lists the changes made to this document:

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| --- | --- | --- | --- |
| **Revision** | **Date** | **Amended By** | **Details of Change** |
| 2 | 20/5/2025 | Chris Bailey | Amended following legal review by IRIQ |
| 3 | 20/6/2025 | Sheree Ramsay | Changed Logo/Branding/Colours etc |