



THE TREASURY — POLICY



This policy was endorsed by Kevin Stevenson, Chief Executive Officer.

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OVERVIEW

This policy provides information to staff and Directors on preventing and identifying workplace harassment and bullying and on the appropriate resolution processes available.

PURPOSE

The policy is aimed at promoting co-operative and productive working relationships, maintaining a work environment that is free of harassment, bullying and discrimination and embracing the AASB culture of respect and courtesy.

SCOPE

This policy applies to all AASB staff, and provides information and advice in relation to the responsibilities of staff members, the role of the Workplace Harassment Contact Officer and outlines the complaint resolution process.

HOW DOES THIS POLICY RELATE TO ME?

If you are:	Then your responsibility is to:
All AASB staff	All AASB employees should familiarise themselves with the information provided within this policy including the complaint resolution process, individual responsibilities and legislative considerations.
Directors	Directors are responsible for people management. They have legal and managerial responsibilities for detecting and dealing with harassment or situations that have the potential to develop into harassment.

CONTACTS

For advice, please contact the Litsa Pillios (Human Resources), who is also responsible for the provision of advice and support to employees and Directors affected by these issues or those who may need to engage in this process.

GUIDANCE ON THE PREVENTION OF HARASSMENT AND BULLYING IN THE WORKPLACE

WHAT IS BULLYING AND WHY DOES IT OCCUR?

Bullying is a workplace hazard. It is a form of harassment that can occur wherever people work together. It is behaviour that has the potential to cause injury or illness.

Workplace bullying is repeated, unreasonable behaviour directed towards a person or group of persons at a workplace, which creates a risk to health and safety.

“Repeated” refers to the persistent or ongoing nature of the behaviour, not the specific type of behaviour, which may vary. For example, bullying may comprise a combination of behaviours including unwarranted criticism or insults, spreading malicious rumours, deliberately withholding information or resources and influencing others to exclude or isolate the targeted person or persons. In many instances bullying appears to begin as discreet and indirect behaviours escalating over time into more open and direct behaviours.

“Unreasonable behaviour” means behaviour that a reasonable person, having regard to the circumstances, would expect to victimise, humiliate, undermine or threaten. It includes overt and covert types of behaviour such as:

- abusive, insulting or offensive language;
- excluding, isolating or marginalising others, deliberately or otherwise;
- behaving in a way that frightens or intimidates;
- humiliating others through sarcasm, belittling someone’s opinions or unjustified criticism, including criticism delivered by yelling or screaming;
- teasing or making others the brunt of practical jokes;
- deliberately intruding on a person’s space by pestering, spying or tampering with their work equipment or personal effects;
- spreading misinformation or malicious rumours;
- participating in ‘collective bullying’ or ‘mobbing’ which is characterised by passive aggressive group behaviour used as a deliberate strategy to drive an individual from the workplace;
- setting impossible assignments or deadlines;
- assigning meaningless tasks or unfairly assigning unpleasant tasks;
- treating someone unfairly in relation to work rosters or workplace entitlements such as leave or training;
- deliberately withholding information or resources necessary for effective work performance;
- carrying out initiation pranks; and
- displaying offensive material.

“Risk to health and safety” includes the risk to the emotional, mental or physical health of the person(s) in the workplace.

WHAT IS NOT BULLYING?

Single incidents

A single incident of workplace harassment does not constitute workplace bullying, although it may be distressing or harmful to the targeted individual and should not be tolerated. A single incident of harassment may be a warning sign for bullying and steps should be taken to prevent a reoccurrence.

Be aware that workplace harassment, whether a single incident or repeated occurrences, may breach the Code of Conduct, Commonwealth anti-discrimination legislation or the *Workplace Relations Act 1996*. Some types of harassment, such as those involving physical or indecent assault, amount to a criminal offence, in which case the police should be contacted for advice and assistance.

Legitimate management action

It is important to distinguish between a person reasonably exercising their legitimate authority at work and an instance of bullying or harassment. Directors may be required to direct and control how work is performed and are responsible for monitoring workflow and providing feedback to employees on their work performance. Feedback provided with the intention of assisting staff to improve performance or work-related behaviour *does not* constitute bullying, however care should be taken to ensure that any performance problems are identified and dealt with in an objective and constructive way that is neither humiliating nor threatening.

WHO BULLIES?

Under certain conditions most people are capable of bullying.

Workplace bullying can be upwards (directed towards a Director), parallel (directed towards a colleague) or downwards (directed towards a subordinate).

Note that bullying behaviour is not always intentional. Sometimes people do not realise that their behaviour can be harmful to others.

LEGAL FRAMEWORK

AASB staff are not APS employees but AASB does conform with the APS framework.

Therefore, in accordance with the *Public Service Act 1999*, workplace harassment, including bullying, is contrary to the Australian Public Service Values and the Code of Conduct¹. In addition, both the AASB and its staff have responsibilities under occupational health and safety legislation and anti-discrimination legislation including.

Workplace harassment may breach provisions of Commonwealth legislation, including the:

- *Occupational Health and Safety Act 1991;*
- *Sex Discrimination Act 1984;*
- *Disability Discrimination Act 1992;*

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- *Age Discrimination Act 2004;*
- *Racial Discrimination Act 1975; and*
- *Human Rights and Equal Opportunity Commission Act 1986.*

There may be instances where harassment or bullying amounts to a criminal offence and should be reported to the police.

COSTS TO THE INDIVIDUAL AND THE AGENCY

Workplace harassment and bullying can result in unacceptable effects on individuals in the form of psychological and emotional stress. It can undermine work performance by making the workplace an unpleasant, humiliating or intimidating environment for the individual or group targeted by the behaviour.

Workplace harassment and bullying can have an adverse effect on the agency, in the form of higher staff turnover or a reduced capacity to attract and retain quality staff. Costs may include a lowering of morale in the workplace and higher absenteeism and workers' compensation claims. There can also be considerable costs to the agency in dealing with informal and formal complaints and handling litigation, including the possibility of having to pay damages.

RESPONSIBILITIES

The responsibility to maintain a harassment-free workplace and to uphold a culture of respect and courtesy lies with all staff.

Role of staff members

On an individual level **your** role is to:

- refrain from actions that could be perceived as harassment or bullying;
- be familiar with and uphold the AASB Values and Code of Conduct, ensure your behaviour meets standards which are acceptable to the workplace and encourage colleagues to do the same;
- comply with relevant legislation;
- seek assistance or speak out against harassment and bullying if you experience or witness it; and
- become involved – consider taking on a role as a Workplace Harassment Contact Officer.

Role of Directors

As a Director, **your** role is to:

- model positive behaviours of respect, fairness and courtesy;
- be sensitive about how you may be perceived by others in your team and to know the best ways to communicate difficult or sensitive issues to your staff;
- be informed about the issue of workplace harassment and bullying;
- deal promptly with complaints and ensure the matter is addressed through the resolution processes outlined on page 8 (**Complaint Handling Procedures**);
- ensure staff work in a manner that values other colleagues;
- provide support for staff when they seek advice about dealing with workplace harassment, including information about review and complaints procedures;
- maintain confidentiality; and
- recognise and support the role of Workplace Harassment Contact Officer, including time given to undertake required training.

AASB's Role

The Agency Head and Directors are accountable for people management. They have legal and managerial responsibilities for detecting and dealing with harassment or situations that have the potential to develop into harassment. AASB will:

- ensure immediate and appropriate action is taken to investigate a complaint of workplace harassment or bullying;
- take action appropriate to the nature and seriousness of a case of workplace harassment or bullying;
- take action appropriate to the outcome of an investigation, including where the complaint may be found to be frivolous or vexatious;
- provide fully trained Workplace Harassment Contact Officer;
- provide a support network for Workplace Harassment Contact Officer;
- monitor trends in workplace harassment (through, for example, exit interviews and general feedback from Workplace Harassment Contact Officer) and act on those findings to minimise incidents of workplace harassment and bullying.

Role of Workplace Harassment Contact Officer

AASB provides for staff to be trained as a Workplace Harassment Contact Officer. It is not necessary for staff to lodge a complaint for contact to be made with a Workplace Harassment Contact Officer.

The role of the Workplace Harassment Contact Officer is to:

- provide information to staff on workplace harassment and bullying;
- raise awareness that views on acceptable behaviour can differ between individuals;
- provide information on options available to resolve alleged cases of harassment; and
- support staff through the resolution process.

It is not the role of the Workplace Harassment Contact Officer to resolve harassment grievances but to provide information and support, whilst ensuring confidentiality is maintained. The Workplace Harassment Contact Officer can provide support by:

- listening empathetically to staff;
- accompanying staff to see the alleged harasser or their Director; or
- accompanying staff to hearings, inquiries or mediation sessions.

Except in exceptional circumstances, it will not be appropriate for the Workplace Harassment Contact Officer to support both the alleged harasser and the complainant. Workplace Harassment Contact Officer will not support both parties unless they have notified both parties of their intention to do so.

Whilst maintaining appropriate confidentiality, the Workplace Harassment Contact Officer may seek support or advice from a Director or the Chief Executive Officer.

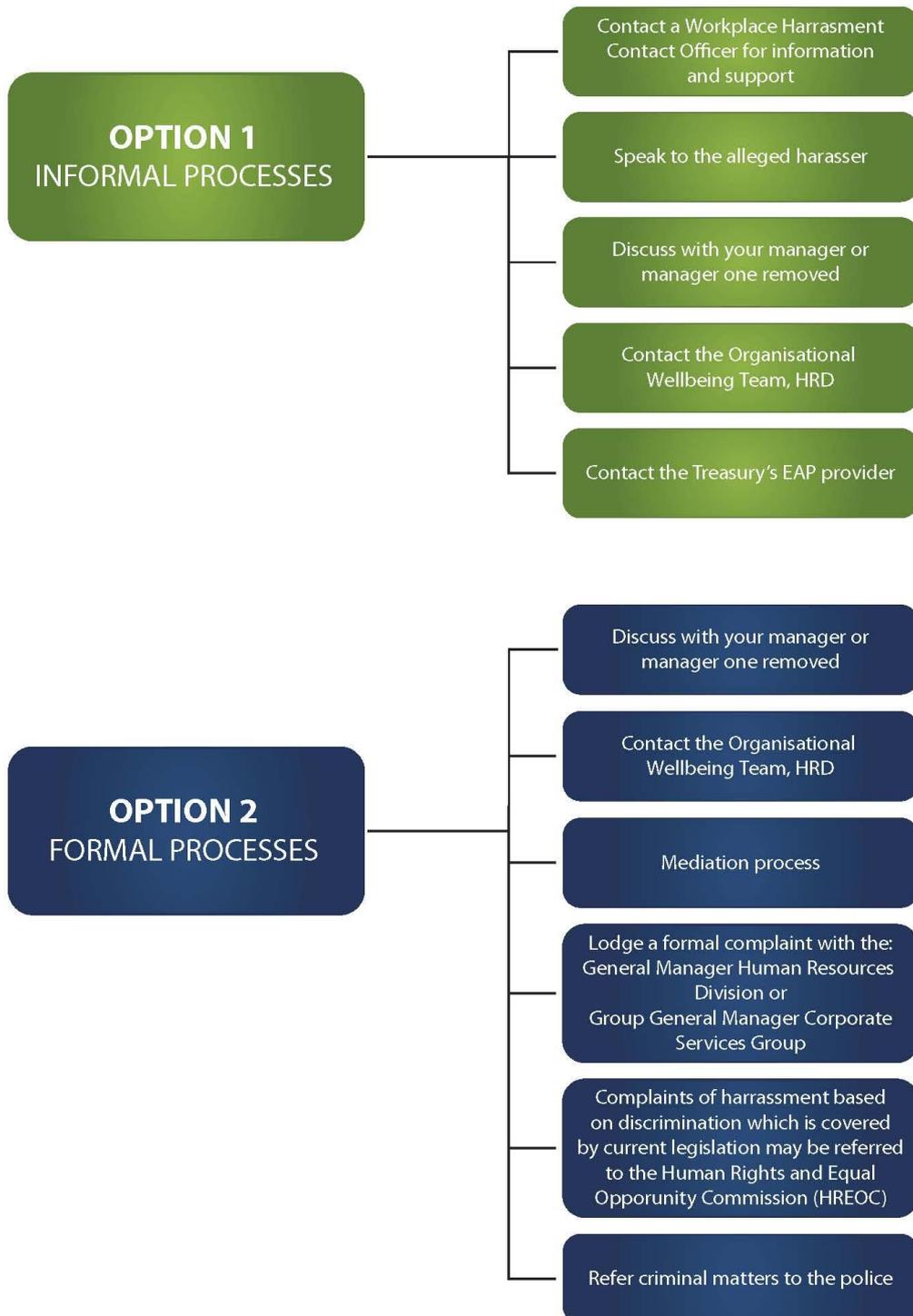
COMPLAINT HANDLING PROCEDURES

Where there is alleged harassment or bullying, the agency will take it seriously and will facilitate resolution.

Where possible, it is preferable to resolve issues through an **informal process** and:

- Allow staff the opportunity to take positive action to correct or alter their behaviour.
- Allow the situation to be addressed without staff being regarded as troublesome.

Resolution Process: What are the options?



Informal processes

There are a number of options available to resolve an issue through an informal process.

- Approach the alleged harasser and discuss.
- Contact the Workplace Harassment Contact Officer for information and support.
- Contact your Director.
- Contact Director, Finance and Administration.

These options are also available to staff members who may wish to play a role in reporting what they observe to be bullying or harassing behaviour.

Complaints or requests for assistance will be taken seriously and mutually agreed outcomes sought. Directors should ensure that an issue is addressed in a way that leaves staff free from offensive, harassing or bullying behaviour.

Where a complainant does not wish to action informal processes, or where these processes do not resolve an issue, the complainant may submit a formal complaint.

Formal processes

- Contact your Director.
- Contact Director, Finance and Administration
- A mediation process may be arranged between all parties involved.
- A formal complaint may be lodged with the Director, Finance and Administration or the Chief Executive Officer. The complaint should include specific examples where appropriate, including what action if any has taken place to date, and a request that the matter be investigated.
- The Chief Executive Officer will appoint an independent member of staff at an appropriate level or, where appropriate, an external investigator, to investigate and make recommendations for consideration. Investigations may take the form of a Code of Conduct investigation.
- The investigation will include interviews with all relevant parties to the complaint. Other staff that has knowledge of the situation may also be interviewed.
- If the complainant considers the issue has not been resolved satisfactorily, a review of action under section 33 of the *Public Service Act 1999* may be available and, where the matter remains unresolved, it might also be possible to lodge a review of action with the Public Service and Merit Protection Commission.
- If the alleged harassment involves discrimination covered by current legislation a complaint may be lodged with the Human Rights and Equal Opportunity Commission (HREOC).

Where harassment or bullying is found, the possible outcomes of an investigation include:

- the cessation of offensive behaviour;

- an apology from the harasser;
- professional counselling or education on discrimination and harassment for a person, team or organisation where appropriate;
- professional counselling for the person subject to harassment;
- transfer to alternative project work for either party involved;
- the matter could be the subject of disciplinary action under breach of Code of Conduct procedures. Disciplinary action can include termination of employment.

INFORMATION AND TRAINING

Information will be made available to all staff. This policy will be placed on the Intranet and further information and assistance is available from the Director, Finance and Administration.

The Workplace Harassment Contact Officer will receive appropriate training to support them in their role.

Information about bullying and harassment will be incorporated into current learning and development activities for AASB staff.

RECORDS, CONFIDENTIALITY AND PROCEDURAL FAIRNESS

Records will assist in showing recurring patterns of behaviour or continuing problems. Adequate records are essential if the matter leads to formal disciplinary action or to a request for information under the Freedom of Information provisions. Any formal action taken should be documented. Where an issue has been satisfactorily resolved through informal processes, the keeping of records may not be necessary.

All complaints will be treated as confidential. Confidentiality of all complaints will be maintained in accordance with AASB procedures and the *Privacy Act 1988*.

All allegations will be treated in accordance with the rules of procedural fairness. This may require information about allegations to be disclosed to third parties, including to the alleged harasser. The alleged harasser will be provided with an opportunity to put their case, and to hear the allegations against them. Where appropriate, information may also be disclosed to the alleged harasser's Director and/or to the CEO. In respect of very serious allegations it may be necessary for the agency to refer the allegations to the appropriate authorities outside of the agency.

Where possible, the complainant's permission will be sought before information about their allegations is disclosed to third parties and before their allegations are referred to external authorities.

Where an investigation has been carried out, the complainant will be advised of the outcome of the investigation. The agency will not, however, necessarily disclose the contents of any report prepared by the investigator. Any decision by the agency to disclose the contents of the investigator's report will depend on:

- whether there is any legal requirement to disclose the report;
- whether there is any legal requirement not to disclose the report;
- the extent to which the report contains personal information about:

- the complainant,
- the alleged harasser, and
- any third parties;
- any undertakings of confidentiality given by the investigator on behalf of the agency; and
- the public interest in the release or non-release of the report.

The *Freedom of Information Act 1982* provides for individuals (including employees) to gain access to documents which may contain personal information about themselves held by the agency. Where a person requests access to documents which contain personal information about a third party, the third party must be consulted before any decision is taken on that request.

MONITORING AND EVALUATION

The Director, Finance and Administration will convene regular meetings with the Workplace Harassment Contact Officer to discuss issues that have arisen and processes/strategies that can be implemented to provide a harassment free workplace for all staff.

This policy will be reviewed annually.

FURTHER INFORMATION

Further information on workplace harassment and bullying can be found at the following locations:

HREOC: www.hreoc.gov.au

Australian Public Service Commission: www.apsc.gov.au

Comcare: www.comcare.gov.au

For further advice on Workplace Harassment and Bullying please contact the Director, Finance and Administration.