



BULLYING AND HARASSMENT POLICY

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Introduction

1. FWBC is committed to fostering a positive workplace culture that is free from bullying and harassment and where people are treated with respect and courtesy.
2. If an employee feels they have been bullied or harassed they are strongly encouraged to report it. All concerns will be properly investigated and treated seriously, confidentially and in a timely manner.
3. All matters will be handled in line with the principles of procedural fairness and treated as confidentially as the process allows.

Legislation

4. FWBC and its employees have legislative responsibilities to prevent bullying and harassment under various pieces of legislation including the *Public Service Act 1999* (PS Act), *Fair Work Act 2009* and anti-discrimination legislation.

Definitions

5. Bullying is repeated workplace behaviour that could reasonably be considered to be humiliating, intimidating, threatening or demeaning to an individual or group of individuals.
6. Harassment is behaviour that is unwelcome and unsolicited that a reasonable person would consider offensive, belittling or threatening.
7. All Bullying and Harassment can be intended or unintended. Even if the behaviour is not meant deliberately, it can still be bullying and harassment where a reasonable person could conclude that it would humiliate, offend, intimate or cause a person unnecessary hurt or distress.



Examples of Bullying and Harassment

8. The Examples of workplace bullying and harassment include but are not limited to:
 - 8.1 Overt behaviours – For e.g. physical contact, verbal abuse, intimidation and aggressive behaviours
 - 8.2 Ostracism – For e.g. isolation, exclusion, not acknowledging an individual's presence
 - 8.3 Undermining – For e.g. spreading gossip and rumours, belittling/ derogatory remarks, baseless criticism
 - 8.4 Sabotage – For e.g. withholding information and resources, inappropriate and unfair application of work policies and rules, deliberately withholding important information

Behaviours that are not Bullying and Harassment

9. Examples of behaviours that are not bullying or harassment include:
 - 9.1 Expressing differences of opinion in a constructive and courteous manner
 - 9.2 Providing constructive and courteous feedback, counselling or advice about work related behaviour or performance
 - 9.3 Carrying out legitimate or reasonable management decisions or actions, undertaken in a reasonable way and with respect and courtesy
 - 9.4 Making a complaint about a supervisor's or other employee's conduct, if the complaint is made in a proper and reasonable way

Roles and Responsibilities

10. FWBC has a duty of care to take all reasonable steps to protect the health and safety at work of their employees. This includes preventing bullying and harassment from occurring.

Agency Head and Senior Executive Service

11. The Agency Head and FWBC senior managers have a legislative responsibility to advocate and explain the standards of behaviour expected of all employees. The FWBC Executive are formally committed to this policy.

Supervisors

12. Supervisors have responsibility for identifying and addressing behaviour which constitutes bullying or harassment or has the potential to do so and dealing seriously and sensitively with all complaints. Supervisors can and should intervene even in the absence of a complaint. Wherever possible they should assist parties to resolve their differences and agree on ways of working together.
13. Some practical steps which supervisors can take to mitigate the occurrence of workplace bullying and harassment include:
 - 13.1 Ensuring their own conduct is consistent with the APS Values and Code of Conduct



- 13.2 Setting and clarifying appropriate workplace behaviours through the performance management process
- 13.3 Addressing all complaints in a timely manner
- 13.4 Advising employees they can seek assistance from the Employee Assistance (EAP)
- 13.5 Consulting HR for advice on possible courses of action

Employees

- 14. All employees are responsible for upholding the APS values and Code of Conduct and this includes treating others with respect and courtesy and without harassment. Employees must ensure that they do not increase or create a risk to their own or others health and safety, and this includes partaking in bullying and harassment behaviour.
- 15. Where an employee observes someone else being bullied or harassed they also have an obligation to report this to their supervisor.

Strategies to Create a Positive Work Environment

- 16. The FWBC provides a number of resources towards promoting a workplace free from bullying and harassment including:
 - 16.1 Taking care selecting supervisors and leaders
 - 16.2 Reinforcing behavioural expectations through induction
 - 16.3 Raising awareness through training
 - 16.4 An Employee Assistance Program (EAP) for employee support and advice to supervisors
 - 16.5 A Mentoring and Buddy Program
 - 16.6 A reporting mechanism to ensure complaints are handled in an appropriate manner
 - 16.7 Monitoring of incidents of bullying and harassment to ensure remedial action is taken
- 17. Supervisors who get the best from their teams inspire a positive workplace culture. Some simple strategies supervisors can use include:
 - 17.1 Maintaining open and honest communication
 - 17.2 Ensuring all team members are aware of, and conform with, the agency's expectations of appropriate behaviour
 - 17.3 realistic goals and deadlines, prioritising tasks, sharing work fairly, and setting clear expectations
 - 17.4 Ensuring staff know their role and have the skills, capabilities, information and training they need to perform to their full potential
 - 17.5 Encouraging employees to find a good work-life balance
 - 17.6 Ensuring achievements are recognised and rewarded
 - 17.7 Providing constructive performance guidance, including regular feedback



Addressing Bullying and Harassment

18. Employees have a range of options to raise issues or concerns regarding bullying and harassment including:
 - 18.1 Manager or Supervisor
 - 18.2 Assistant Director – Human Resources
 - 18.3 [Employee Assistance Program](#)
19. Complaints regarding bullying and harassment may be handled by informal or formal processes. Although informal measures are preferred in the first instance they do not need to be exhausted before formal action commences.
20. If an employee does not wish to pursue either course of action this does not mean that a supervisor should take no action. Supervisors have an obligation to take appropriate action and should consider implementing other strategies. They can discuss possible options with HR.

Informal Resolution

21. Informal processes emphasise resolution rather than factual proof or substantiation of a compliant and allegations will likely remain untested.
22. Employees who believe they are receiving inappropriate treatment should, if possible, approach the person concerned about the behaviour in the first instance.
23. If the behaviour does not cease or the employee is not comfortable with this approach they should seek advice from their supervisor.
24. The supervisor should arrange a meeting with the parties. This could be a simple discussion through to more structured arrangements such as a meeting of the parties facilitated by the supervisor.
25. The meeting should focus on clarifying what is regarded as acceptable behaviour and the steps both parties can take to establish positive working relationships.
26. The outcome of the meeting could be a clearer understanding of the person's concerns, an apology for the inappropriate behaviour, an agreement about future behaviour and improved work practices.
27. If the complaint is of a significant nature or if the employee wants management to address the issue the supervisor should approach HR.

Formal Resolution

28. Where informal processes have not been successful or the alleged bullying and harassment is of a serious nature formal methods of resolution may be appropriate.
29. An employee can make a formal bullying and harassment complaint in writing to HR. Complainants are required to articulate the nature of their complaint, the outcome sought and the steps already taken to resolve the issue.
30. Where a formal complaint is made the HR will arrange for preliminary enquiries to be made which may involve an informal or structured formal investigation.
31. Based on these enquiries advice will be provided on the most appropriate action including whether an investigation is required under FWBC [Procedures for handling Code of Conduct breaches](#).



32. Unlike informal processes formal measures will involve factual proof or substantiation of a complaint.
33. A flowchart outlining how workplace issues including bullying and harassment are managed in FWBC refer to [Attachment B](#).

Record Keeping

34. For informal complaints a diary note should be recorded, with details of how the employee wanted the matter handled, any action taken and any follow up information.
35. For formal complaints detailed records regarding the investigation, findings, recommendations and implementation must be kept. Records of complaints and investigations should be treated confidentially and information should be accessed only a 'need to know' basis.

Consequences of Breaching the Policy

36. The following outcomes are examples, but are not exhaustive, of what may result from breaching this policy:
 - 37.1 A formal apology to the complainant
 - 37.2 Counselling
 - 37.3 Conciliation/mediation by an impartial third party
 - 37.4 Re-assignment of duties
 - 37.5 Reduction in classification
 - 37.6 Termination of employment; or
 - 37.7 Other sanctions available under various legislation
37. Similarly consequences exist for employees who are found to have victimised or retaliated against a person who has made a complaint of bullying or harassment.
38. Outcomes will depend on factors such as:
 - 39.1 The severity or frequency of the bullying or harassment
 - 39.2 The wishes of the person who was bullied or harassed
 - 39.3 Whether the perpetrator could be expected to know that such behaviour was a breach of policy
 - 39.4 The level of contrition
 - 39.5 Whether there were any prior incidents or warnings.

Other Reference Materials

- [Bullying in the Workplace: A Guide to Prevention for Supervisors and Managers \(Comcare\)](#)
- [Respect: Promoting a Culture Free from Harassment and Bullying in the APS \(Australian Public Service Commission\)](#)



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Attachment A – Legal Obligations

1. The legislative framework applicable to the APS places legal obligations on FWBC and its employees in relation to bullying and harassment. The relevant pieces of legislation include the *Public Service Act 1999* (PS Act); the various pieces of Commonwealth and State anti-discrimination legislation; the *Work Health and Safety Act 2011* (WHS Act 2011) and the *Fair Work Act 2009*.
2. The PS Act requires all APS employees to comply with the APS Code of Conduct, which provides that an APS employee, when acting in the course of APS employment, must:
 - 2.1 treat everyone with respect and courtesy, and without harassment
 - 2.2 an APS employee must at all times behave in a way that upholds the *APS Values* and the integrity and good reputation of the APS; and
 - 2.3 comply with all applicable Australian Laws.
3. Bullying or Harassment may also breach Commonwealth and State anti-discrimination legislation including the Sex Discrimination Act 1984, Age Discrimination Act 2004, Disability Discrimination Act 1992, Racial Discrimination Act 1975 and Human Rights and Equal Opportunity Commission Act 1986. The unfair treatment based upon a real or perceived attribute or difference including, but not limited to race, gender, culture, marital status, disability, religion, pregnancy or age may contravene one or more of these pieces of legislation.
4. Under WHS Act 2011, employees have a duty not to create a risk to the health or safety of other persons (whether employees or not). Inappropriate behaviour towards a colleague is considered as creating a risk.
5. The WHS Act 2011 imposes an obligation on employers to take all reasonably practicable steps to protect the health and safety at work of their employees. This obligation includes steps to prevent workplace harassment from occurring.
6. FWBC, its contractors and agents are bound by the provisions of the *Privacy Act 1988* (Privacy Act), which prevents personal information from being disclosed without appropriate consent, unless the disclosure is required or authorised by law. Section 14 of the Privacy Act contains the Information Privacy Principles which prescribe the rules for handling personal information.
7. Any use or disclosure of personal information by FWBC, its contractors and agents will be in accordance with the *Privacy Act 1988*.



Attachment B – Flowchart for Managing Workplace Issues

