Overview

Everyone in the workplace, irrespective of their position, deserves to be treated with dignity and respect. No one should suffer harassment and bullying while going about their work. This can put at risk the health, safety and wellbeing of all employees. The NSW Rural Assistance Authority (the Authority) has therefore adopted a policy of ‘zero tolerance’ to bullying at work.

This policy sets out the relevant definitions, underpinning principles and the Authority’s commitment to eliminating harassment, bullying and discrimination.

The Authority is committed to ensuring that all employees are treated fairly and equitably, and that they work in an environment that is free from all forms of harassment and bullying.

Bullying and harassment (including victimisation and vilification) will not be tolerated and all Authority staff are required to comply with the behavioural standards outlined in the Authority’s Code of Conduct.

Background

This policy has been developed by the Authority to meet the requirements of State and Commonwealth anti-discrimination and work health and safety legislation.

The Authority is committed to ensuring that all employees are treated fairly and equitably, and they work in an environment that is free from all forms of harassment and bullying.

The policy is regularly reviewed and refined to strengthen the Authority’s commitment to the prevention of harassment and bullying in the workplace.

Scope

This policy applies to all employees of the NSW Rural Assistance Authority including those staff employed on a temporary/casual basis through employment agencies, contractors and visitors.

The policy applies in any of the Authority’s work locations, as well as conferences, training courses, workshops, business or field trips, and any other work functions including Christmas parties and staff farewells.

Statement of Commitment

The NSW Rural Assistance Authority aims to provide an employment environment that is free of harassment and supports the dignity and self-esteem of every employee.

Harassment of staff or members of the public, in circumstances associated with Authority related activities is unacceptable and contrary to the employment policies of the Authority.

Any incidents of harassment and bullying will be treated seriously and the following will apply:

(a) Complaints will be dealt with promptly and in accordance with principles of natural justice;
(b) Confidentiality will be maintained within the procedures for resolving complaints;
(c) Disciplinary procedures may be invoked in the case of serious or persistent harassment or bullying; and
(d) Victimisation as a result of a complaints will not be tolerated

The Authority will ensure that staff are informed of this policy and managers and other supervisory staff are aware of their responsibilities in accordance with this policy.
Policy Statement

Bullying or harassment against any member of staff by another member of staff is unacceptable. Bullying or harassment should not be confused with legitimate direction, comment and advice regarding standards of work, workplace behaviour or performance given appropriately by executive, managers, supervisors or co-workers.

All forms of harassment and bullying are of concern as the behaviour may:

- create an intimidating hostile, offensive or distressing work environment
- adversely affect the performance of individual staff
- adversely affect a person's admission into a program
- adversely affect an individual's recruitment, level of appointment, promotion and/or progression opportunities
- adversely affect an individual's access to and/or participation in the range of training and professional development opportunities
- adversely reflect on the integrity and standing of the Authority
- increase the risk of the Authority being exposed as vicariously liable.

Provisions relating to unlawful harassment are outlined in the federal and state anti-discrimination legislation.

Harassment on the following grounds is unlawful:

- race, colour, descent, national or ethnic origin, ethno-religious background
- sex, pregnancy or potential pregnancy
- marital status
- disability (physical, intellectual, psychiatric, sensory, neurological or learning disabilities and illnesses such as HIV/AIDS)
- age
- homosexuality
- transgender status
- carer’s responsibilities.

The legislation also prohibits racial, homosexual, transgender and HIV/AIDS vilification, dismissal because of family responsibilities, and victimisation resulting from raising a complaint.

Work health and safety legislation prohibits any inappropriate behaviour, which undermines the Authority’s responsibility to provide a safe and healthy workplace for all staff.

Policy

1. Workplace Bullying

Workplace bullying is a risk to health and safety. It is best dealt with by taking steps to prevent it from occurring and responding quickly if it does occur. The longer the bullying behaviour continues, the more difficult it is to address and the harder it becomes to repair working relationships.

Safe Work Australia in it’s ‘Guide for Preventing and Responding to Workplace Bullying’ defines bullying as repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety. Examples include:

- abusive, insulting or offensive language or comments
- unjustified criticism or complaints
- deliberately excluding someone from workplace activities
- withholding information that is vital for effective work performance
- setting unreasonable timelines or constantly changing deadlines
- setting tasks that are unreasonably below or beyond a person’s skill level
• denying access to information, supervision, consultation or resources to the detriment of the worker
• spreading misinformation or malicious rumours
• changing work arrangements such as rosters and leave to deliberately inconvenience a particular worker or workers.

The following broad categories of behaviour are NOT considered workplace bullying:
• reasonable management action
• discrimination and sexual harassment
• workplace conflict.

Workplace violence is also not considered to be bullying as threats to harm someone, violence and damage to property are criminal matters that should be referred to police.

Bullying in the workplace is illegal under work health and safety legislation.

2. Harassment

Harassment can be either a series of events or just one act. This means behaviour does not need to be repeated or continuous to constitute harassment. Harassment may be intentional or unintentional.

Certain forms of harassment (such as physical contact, assault and/or stalking) may be unlawful under both State and Commonwealth anti-discrimination legislation. Such acts could be referred to external agencies (e.g. police) and may result in criminal prosecution.

Examples of harassment could include, but are not limited to:
• persistent verbal abuse or threats
• persistent disruption of an individual’s work, workspace or equipment, or interfering with a person’s property
• intrusive comments or questions about a person’s customs or religion
• intrusive questioning about a person’s private sexual activity
• sexual or physical contact such as slapping, kissing or touching
• sexual assault
• requests for sexual favours
• persistent following (stalking)
• jokes, derogatory or dismissive comments, either about a workplace participant or about a group in general
• gestures that are insulting or belittling
• suggestive looks or leering
• use of electronic communication equipment to send racist, anti-gay, sexist, pornographic or other offensive material
• circulating or displaying written or pictorial material, including screensavers and wallpaper, that is offensive or belittling
• downloading offensive material from the Internet where potential exposure may occur.

Harassment can take place between:
• an employee and a manager or supervisor
• a manager or supervisor and an employee
• co-workers
• an employee and another person in the workplace (e.g. client, contractor, work experience placement or employee of another agency).

Harassment can occur in any location where people are working, including a location where services are delivered outside the usual place of work, such as a client’s home.
Harassment can occur at work-related activities outside the workplace, such as work parties, conferences and during work-related travel.

Any harassment that occurs outside of work, or external work-related activities, is not covered by anti-discrimination legislation. This means that, for example, a work social club function or section end of year party is covered by the legislation but an informal gathering of work colleagues is not. However, if an incident outside work affects a working relationship and/or workplace performance, management still has a responsibility and a right to resolve the issue.

Sexual harassment may include touching, patting, pinching, kissing, embracing, leering or gestures, sexual assault, rape, innuendo, smutty jokes, suggestive comments about someone’s appearance or body, persistently inviting someone out, questions about a person's private or sexual life, requests for sexual favours, displays of sexually explicit material, suggestive phone calls, letters, emails or messages, indecent exposure, offensive noises, displays of graphic or suggestive material, or stalking.

Sexual harassment is not behaviour which is based on mutual attraction, friendship or respect. If the interaction is consensual, welcome and reciprocated it is not sexual harassment unless the behaviour could be offensive to others in the workplace.

3. Victimisation

Victimisation is unacceptable and will not be tolerated by the Authority. No person making a complaint, or assisting in the investigation of a complaint, is to be victimised.

Victimisation of people making complaints will be treated as seriously as the original behaviour giving rise to the complaint.

4. Reports and complaints

Reports and complaints of harassment and bullying will be treated seriously and will be investigated promptly in a sensitive, thorough and confidential manner ensuring that complainants and witnesses are not victimised.

The principles of natural justice apply and will guide the application of this policy and associated procedures. This means that before a decision is taken about them, staff have the right to be informed about the nature and content of the issue, have the right to be heard and have the right to have an unbiased decision maker.

Reports and complaints of bullying and harassment will be investigated in accordance to the Authority’s Grievance Management procedure (RAA004Pro), being settled efficiently and effectively within the Authority wherever possible.

5. Support

Authority staff are able to access the ‘Employee Assistance Program’ available through the NSW Department of Industry, Skills and Regional Development (Department of Industry). Details are available from the Manager Administration and may also be found on the Department of Industry intranet at:


6. Workplace training and awareness

Training is integral to developing a workplace culture that encourages dignity and respect in the workplace. Training reduces the risk of bullying occurring in the workplace because it builds staff confidence in the Authority’s anti-bullying policy and better equips managers to understand bullying issues and prevention strategies at the workplace level.

Anti-bullying and harassment training should embrace the following aspects:

• creating awareness and building commitment to a bully free workplace
• staff awareness of the Authority’s Workplace Harassment and Bullying Policy
• risks associated with poor anti-bullying and harassment prevention.
Roles and Responsibilities

Managers and supervisors are accountable for the conduct of staff under their management. It is integral to a manager’s responsibilities that he or she should identify, prevent or redress potential problems in the workplace before these become the subject of complaints. Therefore any manager or supervisor who observes inappropriate behaviour has a duty to raise it with the person and to take further action if the behaviour does not cease.

Managers and supervisors are responsible for ensuring the workplace is free of harassment, bullying and discrimination. They must:

- Ensure their behaviour provides a model of the standards required;
- Actively promote and support the Authority’s policy and strategies for combating harassment and bullying in the workplace;
- Communicate to all employees under their direction that harassment and bullying will not be tolerated and complaints will be treated seriously;
- Ensure all employees are aware of the Authority’s grievance procedures and have access to them;
- Take appropriate action in circumstances where they become aware of harassment and bullying whether a complaint has been lodged or not;
- Ensure that staff members are not victimised or penalised for making a complaint about harassment or bullying, and they retain full access to all entitlements and benefits;
- Actively encourage all employees under their direction to attend training courses on ‘Combating Workplace Harassment and Bullying’.

All staff must ensure that their behaviour is consistent with the Authority’s Code of Conduct and contribute to a productive workplace environment.

They must:

- Ensure that they treat work colleagues fairly and sensitively and do not participate in, or condone any behaviour that is offensive;
- Be aware of and comply with this policy and the Authority’s procedure relating to staff grievances;
- Report any improper behaviour to a supervisor/manager or to the Manager Administration;
- Maintain complete confidentiality concerning any complaint or investigation;
- Not make false or vexatious complaints of harassment, bullying or discrimination. A staff member who makes untrue allegations may be subject to disciplinary measures.

Procedures

Generally, the matter should be dealt with as close to the source as possible with graduated steps for further discussion and resolution at higher levels of authority.

Step 1: Tell the staff member behaving in an offensive way that their behaviour is unacceptable and that they should stop or change behaviour. Although this may be difficult, the issue must be confronted and dealt with by both parties. In the event you feel unable to do this, speak to your supervisor or their supervisor first.

Step 2: If they do not stop, you should tell your immediate manager/supervisor. At all times management must make sure that confidentiality is maintained. The names of anyone involved in the complaint must not be discussed with others except those immediately involved in the complaint.

Step 3: Your immediate supervisor will address the matter within five working days of being notified, either by resolving the grievance or negotiating an agreed method and timeframe for proceeding. If the grievance cannot be resolved at this level, or you do not wish to discuss the grievance with your supervisor, you may raise the grievance with the Director.
Step 4: The Director will address the matter within five working days of being notified, either by resolving the grievance, in consultation with Department of Industry’s Human Resources staff or negotiating an agreed method and timeframe for action.

If for any reason you do not feel you can approach your manager/supervisor, or if they believe they are not capable of handling the complaint, the Manager Administration should be consulted. The Director Human Resources, NSW Department of Industry is also identified as having the skills and knowledge to assist in resolving these matters.

Your union representative or industrial officer may also advise or assist you in dealing with these issues, if required.

Definitions

**Discrimination**
Treating of a person less favourably than others because they have a particular characteristic or belong to a particular group of people.

Direct discrimination is where someone is treated less favourably because of their sex, age, race, disability, pregnancy or any of the other grounds covered by anti-discrimination legislation.

Indirect discrimination occurs when a requirement (or rule) that is the same for everyone has an effect or result that is, or is likely to, disadvantage staff because of their sex, race, disability etc.

**Harassment**
Is verbal or physical conduct which, because of its severity and/or persistence, is likely to create a hostile or intimidating environment which in turn may detrimentally affect an individual's employment.

**Natural Justice**
Natural justice refers to a process that is fair to all parties and free of bias. The principles include the right for the affected person to be heard before any decision which has the potential to affect them is made, the right to be informed of allegations made, the right of response, the right to representation and consistency in the Authority’s approach to issues.

**Repeated behaviour**
Refers to the persistent nature of the behaviour and can involve a range of behaviours over time.

**Sexual harassment**
Is unwelcome advances, requests for sexual favours, and other verbal or physical conduct of a sexual nature, when submission to or rejection of this conduct explicitly or implicitly affects a person's employment, unreasonably interferes with a person's work, or creates an intimidating, hostile or offensive working environment.

**Unreasonable behaviour**
Means behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.

**Victimisation**
Refers to unfavourable treatment of a person because of their involvement in a complaint made under the Authority’s grievance procedures or to an external body.

**Vilification**
Is any public act (including in the workplace) that could incite hatred, serious contempt or severe ridicule against a particular group or individual. Racial vilification, homosexual vilification and HIV/AIDS vilification are unlawful under the NSW Anti Discrimination Act 1977.

**Workplace Bullying**
Is repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety.
Related Legislation

- Age Discrimination Act 2004 (Clth)
- Anti-Discrimination Act 1977
- Australian Human Rights Commission Act 1986 (Clth)
- Criminal Records Act 1991
- Disability Discrimination Act 1992 (Clth)
- Fair Work Act 2009 (Clth)
- Government Sector Employment Act 2013
- Industrial Relations Act 1996
- Public Interest Disclosures Act 1994
- Racial Discrimination Act 1975 (Clth)
- Racial Hatred Act 1995 (Clth)
- Sex Discrimination Act 1984 (Clth)
- Work Health and Safety Act 2011
- Work Health and Safety Regulation 2011
- Workers Compensation Act 1987
- Workplace Gender Equity Act 2012 (Clth)
- Workplace Injury Management and Workers Compensation Act 1998

Procedures

- Grievance Resolution
- Induction Process

Related Policies

- Code of Conduct
- Work Health and Safety
- Grievance Management

7. Related Documents

- Premiers Memorandum M1996-11 - Dealing with Employee Work-Related Concerns and Grievances, and Harassment Free Workplace
- Premiers Memorandum M2007-02 - Dignity and Respect: Policy and Guidelines on Preventing and Managing Workplace Bullying
- Dignity and Respect - Policy and Guidelines on Preventing and Managing Workplace Bullying – NSW Department of Premier & Cabinet - 2007
- Harassment Free Workplace - Policy and Guidelines – NSW Department of Premier & Cabinet - 1996
- The Code of Ethics and Conduct for NSW government sector employees – Public Service Commission – April 2015
- Dealing with Employee Work-related Concerns and Grievances – Policy & Guidelines – Department of Premier & Cabinet - April 1996
- Guide for Preventing and Responding to Workplace Bullying – Safe Work Australia – November 2013
- Dealing with Workplace Bullying - A Worker’s Guide - Safe Work Australia – November 2013
### Revision History

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