

Discrimination, Harassment and Workplace Bullying Policy

// About this document

Policy purpose:

This policy and procedure sets out the types of behaviours and conduct which will be taken to constitute discrimination, harassment, bullying and establishes procedures for handling complaints in the workplace.

Plan2go is committed to providing a workplace which is free from bullying, harassment and unlawful discrimination. Plan2go aims to ensure all those participating in the workplace are treated with respect, dignity and fairness with an aim of creating an environment which promotes positive working relationships.

Policy authority:

This policy reflects the rights and responsibilities of individuals as outlined in the following legislation:

- *The Fair Work Act 2009 (Cth)*
- *The Work, Health and Safety Act 2011*
- *Age Discrimination Act 2004 (Cth)*
- *Australian Human Rights Commission Act 1986 (Cth)*
- *Disability Discrimination Act 1992 (Cth)*
- *Racial Discrimination Act 1975 (Cth)*
- *Sex Discrimination Act 1984 (Cth)*
- *Work Place Gender Equality Act 2012 (Cth)*
- *Victoria Equal Opportunity Act 2010 (VIC)*

This policy has been authorised by the Captain in Charge.

Policy application:

This policy applies to all of the company's employees, contractors (temporary or otherwise) and agents of Plan2go. This policy and procedure is not limited to the workplace or working hours, and will include all work related events which includes, but is not limited to lunches, client functions, meetings and conferences as well as Christmas parties.

This policy also relates to, but is not limited by the following types of communication:

- Verbal communication either over the telephone or in person; in the workplace and as well outside of it.
- Written communication including letters, notes, minutes of meetings, etc.
- Internal and external electronic communication including:
 - email
 - instant messaging services
 - internal intranet
 - faxes
 - social media and networking forums such as Facebook, LinkedIn, Twitter and other forms of social media
 - communications via text message.

Note: this list is not exhaustive.

Expected update frequency:

Yearly

Policy location:

<http://plan2go.nctafe.edu.au/assets/intranet/Crew-Folders/People-and-Culture-Crew/Workplace-Relations/Discrimination-Harassment-and-Workplace-Bullying-Policy.pdf>

// Document control

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2	Annual review of policy	15/04/2010	Lil Taylor
3	Template and branding update	26/11/2012	Justin Hart
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1. What is discrimination?

Discrimination involves treating people differently due to race, religion, age, gender, disability, sexual preference or any other perceived “difference”. Discrimination is unlawful and can take one of two forms:

1. Direct discrimination
2. Indirect discrimination

1.1 Direct discrimination

Direct discrimination occurs when a person with a particular attribute is treated less favourably than a person without that attribute in the same or similar circumstances. For example:

- an advertisement for employment which specifies that a person under a certain age will not be considered for a role
- a refusal to interview an applicant for a job because they are Aboriginal or Torres Strait Islander.

These are both examples of direct discrimination on the basis of a person’s age or race.

1.2 Indirect discrimination

Indirect discrimination occurs when a policy or practice which applies to everyone has an unequal or disproportionate effect or result on particular groups, such as women or a person who is disabled. For example:

- a policy which provides that training is available only on the weekend may indirectly discriminate against people who are unable to work on weekends for religious or cultural reasons, or due to parental responsibilities
- a decision to only hire fluent English speakers, where this is not a genuine requirement for the position, will indirectly discriminate against people from a non-English speaking background.



2. What is Harassment?

Harassment involves subjecting people to unwelcome or uninvited attention that intimidates, humiliates or offends them, or makes the workplace uncomfortable and unpleasant. It can be verbal, written, visual or physical in form.

Harassment is unlawful if it is sexual, or based on job status, age, race, background, educational opportunities, gender, sexual preference, marital and parental status, national or ethnic origin, religious or political beliefs, physical and mental impairment, social origin, political opinion, trade union activity, criminal record, medical history or HIV status. While Harassment may not be intended to hurt another person, if it does it is unlawful.

Harassment has a negative effect on the workplace and often results in:

- A hostile workplace
- Poor performance and job satisfaction
- Impaired health and increased stress
- Lost career opportunities
- Increase in staff turnover/high program dropout rates
- Reduced productivity and efficiency
- Considerable costs for the organisation and the affected employee

Examples of harassment

Harassment can be verbal, written, physical or visual and includes innuendo. Examples of harassment include:

- Sexual or suggestive remarks and references
- Persistent and unwelcome requests to go out
- Propositions (sexual invitations)
- Spreading rumours
- Making fun of someone
- Obscene telephone calls/texts/letters/faxes/e-mail message
- Offensive jokes
- Repeated questions about someone's personal life
- Threats or insults
- Name calling
- Use of inappropriate language



2.1 Non-verbal harassment

Examples of non-verbal harassment include:

- Displaying sexually suggestive, offensive or degrading materials on walls, computer screen savers, e-mails or memos
- Circulating humiliating or intimidating literature
- Suggestive looks or leers
- Unwelcome practical jokes
- Unsolicited letters, faxes or notes
- Mimicking someone
- Following someone to and from work
- Offensive hand or body gestures
- Wolf whistling
- Unnecessary physical contact
- Isolating someone

2.2 Physical harassment

Examples of physical harassment include:

- Unnecessary physical contact (pinching, patting, touching, hugging against a person's will, kissing)
- Pushing, shoving or jostling

3. Bullying behaviours

A bully is a person who uses their strength or power to coerce others by fear or to persecute or oppress by force and threat. Bullying constitutes offensive treatment through vindictive, cruel, malicious or humiliating attempts to undermine an individual or groups of employees.

Examples of bullying behaviour include:

- Repeated shouting, swearing and spontaneous rages, often over trivial matters
- Personal insults and name calling
- Persistent criticism
- Spreading unfounded rumours
- Ignoring or excluding someone from the work/training group
- Persecution through instilling fear and making threats
- Groundless withdrawal of benefits
- Constantly undervaluing effort
- Public reprimands and humiliation



- Refusing to listen to another's point of view
- Removing areas of responsibility
- Constantly changing targets or work deadlines
- Withholding work related information or supplying incorrect information
- Blocking applications for leave, training or promotion

3.1 What is not bullying behaviour?

Fair and reasonable management action taken in order to counsel an employee for instances of underperformance, investigating complaints made against employees, discipline for misconduct and other work directions in line with business needs does not amount to bullying.

3.1.1 BREACH OF POLICY

All those individuals covered by this policy are expected to adhere to the standards of behaviour contained herein at all times. Any employee who is found to have breached this policy will be disciplined accordingly, which may lead up to, and include termination of employment. If a contractor of Plan2go is found to have breached this policy, their contract stands to be terminated, or may not be renewed in the future.

4. Complaint handling procedure

All individuals covered by this policy, who believes, that they have been subject to actions or words that may constitute discrimination, harassment or bullying should act upon such matters as soon as possible by following the procedure set out below.

4.1 Seek amicable resolution

In the first instance, the aggrieved employee should, wherever practicable and if they feel comfortable doing so, attempt to amicably resolve the matter with the employee/s or manager/s or otherwise who are alleged to have engaged in discrimination, harassment or bullying behaviour.

When confronting the issue, the individual should clearly state the offensive behaviour experienced, explain that the behaviour is unwelcome and offensive and ask that the behaviour does not continue. The offending person may not be aware that their behaviour or conduct was causing offense or was unwelcome.

This is not a compulsory part of the complaint procedure, and if an employee does not wish to confront the person directly, then this is not encouraged.



Where the alleged discrimination, harassment or bullying behaviour involves the employee's direct manager and it is not practical for them to directly resolve the matter, they shall immediately notify the Leader People and Culture or another HR representative who, with the employee's approval will endeavour to investigate and resolve the matter on an informal basis in accordance with the procedure set out below.

4.2 Reporting discrimination, harassment or bullying behaviour

All those covered by this policy should report instances of discrimination, harassment or bullying behaviour to their line manager. The line manager will handle this complaint by using the procedure set out below.

4.3 Informal complaint procedure

An informal complaint procedure includes a range of alternatives which can be applied in a flexible manner in order to address different complaints in consideration of the relevant circumstances.

The informal complaint procedure is intended to be used for less serious allegations of discrimination, harassment or bullying behaviour and instances which generally do not warrant disciplinary action being taken.

An individual, who is unsure of whether or not to make a formal or informal complaint, can always make an informal complaint first and decide if they want to escalate the complaint to a formal complaint after speaking with their line manager or HR representative.

Different options for handling informal complaints may include, but are not limited to:

- Line manager having a conversation with the alleged bully about the behaviour complained of; or
- Line manager having a meeting with the individuals concerned in an attempt to reach a resolution.

4.4 Formal complaint procedure

In the instance where a formal complaint is made the Plan2go Grievance policy and associated procedures will be followed. Please refer to the stated Policy; a description of the process appears below.



4.4.1 WRITTEN COMPLAINT LODGED

Where an individual wishes to lodge a formal complaint, they will be required to do so by communicating this in writing to their line manager or HR representative.

A written complaint shall include the names of individuals concerned, details of the incident(s) and the names of any witnesses present. Please see below for Plan2go's stance on maintaining individual's confidentiality in the course of handling complaints.

4.4.2 FORMAL INVESTIGATION COMMENCED

Where a written complaint has been lodged, a formal investigation procedure will commence immediately. Formal investigations may be conducted by the line manager and HR representative or Leader People and Culture, whichever is most appropriate.

The investigation will:

1. Clarify details of what took place and ensure that all necessary information is obtained
2. Identify the outcome the complainant is seeking
3. Discuss with the complainant their legal rights, including lodging a formal complaint with the relevant state or federal tribunal
4. Discuss the complaint made with the person/s accused of discrimination, harassment or bullying behaviour
5. Make a determination as to whether the alleged behaviour occurred and if it constituted discrimination, harassment or bullying behaviour.

If Plan2go feels it is appropriate in the interests of health and safety of employees concerned, and/or the efficiency of the investigation process, employees may be requested to refrain from attending work for a period of time whilst the investigation is underway. Alternatively, employees may be given different duties or work to perform while the investigation is being conducted. Employees who are requested to do either of these will be paid at their normal rate of pay during this period.

Where it becomes apparent that the complaint made related to conduct which constitutes misconduct or otherwise warrants disciplinary action, the line manager and HR representative is to refer to the Disciplinary policy for further action and resolution.

4.4.3 CONFIDENTIALITY

Whilst the line manager and HR representative completing the investigation will endeavour to preserve the confidentiality of the complainant and the person complained of, it may be necessary to speak with other workers or people involved to determine what happened and to maintain the integrity of the investigation process.



Where potentially unlawful conduct has occurred, Plan2go will need to alert the appropriate authorities.

Those people who are involved in the complaint (including the complainant, witnesses etc.) are also under a duty to maintain confidentiality and display a commitment to uphold the integrity of the investigation process. If the complainant chooses to bring a support person with them to any meetings, they too are bound by confidentiality. Gossiping and/or the spreading of rumours as a result of, or in connection with, a process followed under this policy will not be tolerated under any circumstances and may lead to further disciplinary action for those concerned.

4.4.4 OUTCOMES

The outcomes of formal or informal complaint procedures will depend on the nature of the complaint, its severity and what is deemed appropriate in the relevant circumstances.

Where the results of an investigation procedure suggest that an individual is guilty of discrimination, harassment or bullying behaviour, appropriate disciplinary procedures will be followed in line with the Disciplinary policy. The disciplinary action will depend on the nature and severity of the behaviour and may include termination of employment, which may be instant dismissal where serious misconduct is deemed to have occurred.

Where the complaint involves a contractor or agent of Plan2go and an investigation process reveals that a person has engaged in unlawful conduct or other behaviour which is prohibited by this policy, those concerned may face termination of their contracts immediately, or may not be renewed in the future.

In addition to the remedies provided in the Disciplinary policy other action may be deemed necessary to resolve or remedy the behaviour complained of, including but not limited to:

- Providing training to employees concerned regarding discrimination, harassment or bullying behaviour
- Requiring employees who have breached this policy to apologise to appropriate person(s)
- Adjusting working arrangements where appropriate
- Providing counselling to employees (complainant and the person complained of)
- Placing employees on performance improvement plans to ensure improved behaviour
- Providing coaching and mentoring



4.4.5 APPEALS PROCEDURE (INTERNAL)

If any parties involved are unhappy with the outcome, or the way the complaint handling procedure was managed by Plan2go they must contact the Leader People and Culture to discuss their concerns.

Once notified, the Leader People and Culture will conduct a review of the procedure followed, the outcome issued and make a final determination on the issue. Once this determination is made, the person who has made the appeal will be notified of the outcome.

