

Discrimination, Harassment & Bullying Policy

1. Overview

1.1 Purpose

This Discrimination, Harassment and Bullying Policy (the Policy) sets out our expectations about how our people behave to seek to prevent unlawful discrimination, harassment, bullying, adverse action, vilification and victimisation.

This Policy describes the expectations of our people, how to speak up, the support available and the consequences for breaching this policy.

1.2 Application

This Policy applies to all our people, including employees and contractors, in Australia of the Westpac Group.

2. Policy requirements

2.1 Westpac Group expectations

Westpac Group is committed to creating a safe, diverse and inclusive place to work. We do not tolerate unlawful discrimination, harassment, bullying, adverse action, vilification or victimisation. Providing a healthy, safe and inclusive workplace supports our people to deliver on our Purpose, *Creating better futures together*, and is one of our Code of Conduct Outcomes, *Supporting Our People*.

All workers are responsible for their own conduct and are required to take reasonable care that their acts or omissions do not adversely affect the health, safety, and wellbeing of others in the **workplace** which includes when working from home and at work-related events (including business trips/travel, conferences and functions). Preventing unlawful discrimination, harassment, bullying, adverse action, vilification or victimisation is all our responsibility.

If you are covered by this Policy, you must familiarise yourself and comply with this Policy and the Westpac Group Code of Conduct.

This means:

- not unlawfully discriminating, harassing, bullying, taking adverse action against, victimising or vilifying anyone in the workplace
- behaving professionally and treating others with dignity, courtesy, and respect in the workplace
- being an Upstander, by speaking up and reporting concerns about behaviour that may constitute unlawful discrimination, harassment, bullying, adverse action, vilification or victimisation (including where you have witnessed or are aware of it)
- protecting and supporting, and not disadvantaging or unfairly treating a person for making or being involved in a complaint about conduct covered by this Policy
- completing the mandatory Living Our Purpose: Respectful Conduct training.

Additional expectations for People Leaders relevant to the prevention of unlawful discrimination, harassment, bullying, adverse action, vilification and victimisation are set out in the following policies:

- Group Consequence Management Framework (CMF) – engage the Workplace Resolutions team any time a concern about unlawful discrimination, harassment, bullying, adverse action, vilification or victimisation is raised with you, or any time you become aware of such a matter
- Your Health, Safety & Wellbeing in The Westpac Group – visibly champion a healthy, safe and positive workplace culture, including managing HSW risks associated with the work environment including employee behaviours, and identifying and reporting hazards and incidents
- Safety & Respect at Work-Related Events – sets behaviour expectations for work-related events to ensure our people are safe and free from harassment and other unacceptable behaviours, and includes responsibilities for People Leaders when arranging work-related events; and
- Westpac Group Code of Conduct – accountabilities for People Leaders include:
 - role modelling expectations
 - encouraging team members to speak up if they identify something that doesn't seem right
 - being clear that team members are safe to make their voices heard and should do so without fear of victimisation
 - fixing problems early and properly, asking 'Should We?' as well as 'Can We?' to ensure good judgement in decision making.

Expectations in this Policy apply to "out-of-hours" conduct where there is a relevant connection to your engagement with Westpac, for example where the conduct:

- is likely to cause serious damage to your relationship with us; or
- damages our interests; or
- is incompatible with your duties / services as an employee or contractor.

2.2 What is unlawful discrimination?

Discrimination is any practice that makes distinctions between individuals or groups that disadvantages some people and / or advantages others.

It is against the law to discriminate against someone on the grounds of any **protected attribute**, which include:

- age, breastfeeding, carers' responsibilities, subjection to domestic or family violence, disability, family responsibilities, sex, gender or gender identity (including transgender), intersex status, marital or relationship status, irrelevant medical or criminal record, parental status, physical appearance, political opinion, pregnancy or a potential pregnancy, raising health and safety concerns or performing legitimate safety-related functions, race, nationality or ethnic origin, religious beliefs or activity, sexuality or sexual orientation, social origin, union membership or protected industrial activity.

While not all these protected attributes apply under the law in every State and Territory of Australia, we do not tolerate discrimination on the grounds of any protected attribute.

Unlawful discrimination can occur:

- at any time during the employment cycle for example, during recruitment, employment, leave, or on termination of your employment
- even if it is not intended
- when interacting with other staff, customers or prospective employees.

This Policy does not deal with lawful types of discrimination such as rewarding good performance or selecting a qualified person rather than an unqualified person for a role.

There are two forms of unlawful discrimination:

- **direct discrimination** is when someone is treated less favourably in their employment due to one of the protected attributes. For example, not hiring someone because of their age, or race, or because of their disability or carers' responsibilities means they may need to take personal/carers leave, etc.
- **indirect discrimination** is when there is a requirement, condition, policy or rule which appears to be the same for everyone but has an unfair effect on people who share a protected attribute, and the requirement, condition, policy or rule is unreasonable in the circumstances. For example, only employing persons of a certain height may be indirectly discriminating against women, who are on average, shorter than men. However, if the requirement itself is reasonable, for example the minimum height requirement is dictated by the need to operate particular machinery safely etc, it may not be unlawful discrimination.

Dealings with customers

Unlawful discrimination against any customer is also unacceptable.

Conversely, there may be circumstances where our customers may prefer to deal, or not to deal, with one of our employees based on a protected attribute. For example, a person who has experienced domestic violence may prefer the assistance of a female employee in separating her finances from her male partner's.

While we will try to accommodate reasonable customer requests, we would not agree to any customer request of this nature which would cause disadvantage to any of our employees. People Leaders should consider all the circumstances of the request by the customer and any impacts it may have on employees.

If you are concerned about a customer's request of this nature or the impact of such a request, or unacceptable conduct by a customer or anyone else in the workplace towards you, you can talk to your People Leader or if you want to talk to someone outside your team, contact the HR Service Centre.

2.3 What is harassment?

Harassment is behaviour which is unreasonable, uninvited and unwelcome that a reasonable person would consider:

- offends, humiliates, intimidates or threatens another person, or
- makes our workplace uncomfortable and hostile for others.

It is against the law to harass someone on the same protected attributes listed for unlawful discrimination. For example, making offensive jokes or gestures, or ignoring or isolating a person or group, in relation to their protected attributes.

Harassment may occur as a single act, or as a series of incidents, persistent innuendos or threats.

Harassment does not have to be directed to a particular person to be unlawful. Harassing behaviour which creates a hostile working environment for other people can also be unlawful. For example, people overhearing your conversation where you make derogatory or disparaging comments about people of a particular protected attribute (e.g. race, sex, disability etc) have a right to complain if they are offended or consider it makes the workplace uncomfortable or hostile for others.

Examples of specific types of harassment include:

- **Disability harassment** - harassing a person in relation to their disability or because they are a relative or associate of a person with a disability, such as humiliating comments or actions about a person's disability, or overbearing or abusive behaviour towards a colleague because of their disability
- **LGBTQIA+ status harassment** - harassment that targets an individual or group based on their sexual orientation or gender identity, including homophobia or transphobia, such as making hurtful, derogatory or unwanted comments about a colleague's or customer's sexual orientation such as to a person who is bisexual, or knowingly misgendering a person's gender identity, such as towards a colleague who has affirmed their gender
- **Racial hatred** - doing or saying something in public that harasses a person or group because of their race, colour, or national or ethnic origin (workplaces are considered to be public places for the purposes of racial hatred laws), such as making racially-based jokes, calling people racial names or making racial slurs and remarks
- **Sexual harassment** - for information and expectations about sexual harassment, sex-based harassment and conduct that creates a hostile work environment on the ground of sex refer to our [Sexual Harassment Policy](#).

2.4 What is bullying?

Bullying is repeated, unreasonable behaviour directed towards an individual or group that creates a risk to health and safety.

Bullying behaviour does not need to be based on a protected attribute of discrimination, such as gender or gender identity, disability, race, or age. A person might be bullied for any reason.

Generally, for conduct to constitute bullying, it must be repeated. A 'one-off' incident would not normally constitute bullying but should not be ignored as it may constitute another form of unacceptable conduct. Bullying can consist of a range of unreasonable behaviours over time.

Bullying can be intentional or unintentional. The test is whether a reasonable person, considering the circumstances, would consider the behaviour unreasonable.

Bullying can occur in different forms including physically, verbally, in writing or through electronic communications (e.g., phone, email, text/instant messaging and social media), and can range from very obvious verbal or physical assault, to very subtle psychological abuse.

Examples of bullying may include:

- abusive behaviour towards another employee such as threatening gestures or physical violence
- aggressive or abusive or offensive language or comments, including threats or shouting
- demeaning remarks
- constant unreasonable and unconstructive criticism.

Examples of more subtle bullying may include:

- deliberate exclusion, isolation or alienation of an employee from normal work interaction, such as intentionally excluding the employee from meetings or work activities
- setting tasks or deadlines that are unreasonable
- spreading misinformation or malicious rumours or undermining another employee, including encouraging others to 'gang up' on the employee
- deliberately changing work arrangements such as rosters and leave to deliberately inconvenience a particular employee
- denying or withholding access to information, supervision, consultation or resources such that it has a detriment to the worker
- excessive scrutiny at work.

What is *not* bullying?

Not all workplace conflict will constitute bullying. Differences of opinion and disagreements will generally not be considered bullying.

Reasonable management action taken in a reasonable way is not bullying. It is reasonable for People Leaders to allocate work and to give fair and reasonable feedback on a worker's performance.

Examples of reasonable management action include:

- setting reasonable performance goals, standards and deadlines
- regular coaching and feedback on performance and/or behaviour
- giving lawful instructions about the performance of duties or exercising reasonable supervision
- implementing organisational changes or restructuring and/or transferring a worker for operational reasons
- not selecting a worker for promotion where a reasonable process is followed
- taking disciplinary action for misconduct including suspension or termination of employment, or managing unsatisfactory performance.

2.5 What is adverse action?

Adverse action must not be taken against someone in the workplace (including for example employees, prospective employees, independent contractors and employers) if it is taken for a prohibited reason(s), or reasons which includes a prohibited reason (outlined below).

A person takes **adverse action** against another person if the person takes, threatens to take or organises the adverse action, examples include:

- dismissing an employee
- injuring (adversely affecting) an employee in their employment
- altering an employee's or an independent contractor's position to their prejudice
- discriminating between employees
- discriminating against a prospective employee in the terms or conditions on which employment is offered
- not hiring a prospective employee
- ending or refusing to enter into a contract with an independent contractor
- refusing to make use of an independent contractor's services
- discriminating against an independent contractor in the terms or conditions which the principal offers to engage them
- an employee or independent contractor taking unlawful industrial action against their employer or principal contractor.

Prohibited reasons

Prohibited reasons include, for example, taking adverse action against another person:

- *because* the other person:
 - has a **workplace right** (or will have in the future); or
 - has or hasn't exercised a workplace right, or
 - proposes or proposes not to (or has at any time proposed or proposed not to) exercise a workplace right;
- *to prevent* the exercise of a workplace right by another person;

- *because* the other person is or isn't (or was or wasn't) an officer or member of an industrial association;
- *because* the other person engages (or has at any time engaged or proposed to engage) in industrial activities within the meaning of sections 347(a) or (b) of the *Fair Work Act 2009* (Cth) this includes for example if a person: is/isn't a union member, engages in lawful industrial activity, or seeks to be represented by a union;
- *because* the other person does not engage in (or has at any time not engaged or proposed to not engage in) an industrial activity within the meaning of sections 347(c) to (g) of the *Fair Work Act 2009* (Cth) this includes for example, taking adverse action against a person because they did not take part in industrial action.

Prohibited reasons also include, and employer taking adverse action against:

- an employee employed on a maximum or fixed term contract *because* of a workplace right the employee has under the fixed term contracts provisions in the *Fair Work Act 2009* (Cth);
- an employee or prospective employee of the employer because of a ground of discrimination prohibited in the General Protection provisions of the *Fair Work Act 2009* (Cth), which includes the employee's: race, colour, sex, sexual orientation, breastfeeding, gender identity, intersex status, age, physical or mental disability, marital status, family or carer's responsibilities, subjection to family and domestic violence, pregnancy, religion, political opinion, national extraction, or social origin. An example would be denying an employee a promotion because the employee is pregnant; and
- an employee by dismissing them because they are temporarily absent from work due to illness or injury of a kind prescribed by the *Fair Work Regulations 2009* (Cth).

Meaning of a workplace right

A person has a **workplace right** if the person:

- is entitled to the benefit of, or has a role or responsibility under, a workplace law, workplace instrument (such as the Westpac Group Enterprise Agreement) or order made by an industrial body; or
- is able to initiate, or participate in, a process or proceedings under a workplace law or workplace instrument; or
- is able to make a complaint or inquiry:
 - to a person or body having the capacity under a workplace law to seek compliance with that law or a workplace instrument; or
 - if the person is an employee - in relation to their employment.

Examples of workplace rights include:

- the right of an employee to take leave
- the right of an employee and others in the workplace to be free from unlawful discrimination
- an employee's (or prospective employee's) right to disconnect
- an employee's (or prospective employee's) rights to:
 - disclose or not disclose information about their pay or the terms and conditions of their employment that would be reasonably needed to work out their pay (such as their hours of work); and
 - ask other employees (with the same or a different employer) about their pay or the terms and conditions of their employment that would be reasonably needed to work out their pay
- workplace delegates' rights.

2.6 What is vilification?

Vilification is very serious unlawful conduct. It means doing or saying something in public that creates, encourages or incites hatred, serious contempt, revulsion or serious ridicule for a person or group of people on a ground(s) which is unlawful under relevant Federal / State / Territory legislation. Such grounds include:

- race, ethnic background, or language, including sign language
- religious beliefs, affiliation or activity (or lack thereof)
- condition relating to health
- gender or gender identity including being transgender or non-binary
- sexuality, such as someone identifying as gay, lesbian or bisexual
- disability status
- age
- relationship or marital status, parental status, family responsibilities, or carer responsibilities
- pregnancy or breastfeeding

- political opinion, affiliation or activity
- trade union or employer association activity
- subjection to domestic and family violence
- accommodation status
- employment status
- lawful sexual activity
- irrelevant medical or criminal records.

An example of vilification is making severely contemptuous and highly offensive statements about a particular race in a team meeting.

2.7 What is victimisation?

Victimisation is when someone is retaliated against, subjected to pressure, adverse comment, isolation or other detrimental behaviour because they:

- raised, or are considering raising a complaint about discrimination, harassment (including sexual harassment or sex-based harassment), conduct which creates a hostile work environment, bullying, victimisation or vilification;
- are involved in a complaint made by someone else (including being a witness or providing information); or
- supported someone else who has made a complaint.

An example of victimisation is excluding or isolating someone from a training opportunity because they have lodged a complaint.

2.8 Speaking Up

Our Code of Conduct requires that we speak up when we see behaviours that don't fit with our values. People who raise concerns should feel confident to do so without fear of victimisation.

You can speak up by:

- being an Upstander
- formally raising concerns
- reporting a HS&W incident.

Upstander

An Upstander is someone who speaks up and takes action against behaviours and activities that negatively impact others, such as off-handed remarks or micro-aggressions. Refer to our Upstander page for resources and information on how to be an Upstander.

Formally raising a concern

Concerns about unlawful discrimination, bullying, harassment, adverse action, vilification or victimisation relating to you or someone else can be raised to your People Leader, or our specialist HR team.

We will consult with you on how to address your concerns and take into account the outcome you are seeking. We will also, to the extent possible, take steps to preserve your anonymity if this is your preference, however this may not always be possible. At times, we may have no option but to conduct a formal investigation into your concerns.

Where this is the case, we will consult with you on how the investigation is conducted (this may involve a formal interview with you and witnesses) and take your preferences into account.

We will also discuss with you any arrangements to support you during the time your concern is being resolved (for example, working from home or at another location).

Reporting a HS&W incident

As instances of alleged discrimination, harassment or bullying are also health, safety and wellbeing related incidents, you should report these incidents via the HS&W Incident and Hazard Management System, CareXpress.

2.9 Supporting You

You can get support by:

- speaking to your People Leader, if you feel comfortable to do so
- contacting the Employee Care team via CareXpress
- ACCESS, our Employee Assistance Program
- MyCoach (via our ACCESS Employee Assistance Program) is available for People Leaders for support dealing with complex people matters or disclosure of a wellbeing concern.

You can also get support externally via the Australian Human Rights Commission.

2.10 Consequences of Policy breaches

If you have breached this Policy we will take disciplinary action against you in accordance with the Westpac Group Consequence Management Framework (Group CMF).

Contractors who are found to have breached this Policy may have their contracts terminated or not renewed.

You may also be personally liable under Federal or State legislation (including anti-discrimination legislation such as the *Sex Discrimination Act 1984* (Cth)), and we may also be vicariously liable (legally responsible) for your actions.

3. Roles and responsibilities

First line of defence	
Employees and contractors	<ul style="list-style-type: none">• comply with the conduct expectations of this Policy• complete mandatory training as required
People Leaders	<p>in addition to the responsibilities as an employee or contractor above:</p> <ul style="list-style-type: none">• engage Workplace Resolutions if an alleged unlawful discrimination, harassment, bullying, adverse action, vilification or victimisation matter is raised with you, or any time you become aware of such a matter• refer to and apply the Sexual Harassment Policy if the concerns raised with you, or you become aware of, are of a sexual nature
Workplace Resolutions	<ul style="list-style-type: none">• provide specialist case management support for conduct matters involving alleged unlawful discrimination, harassment, bullying, adverse action, vilification and victimisation, and recommend outcomes to business decision makers
Employee Care	<ul style="list-style-type: none">• develop, maintain and design the health, safety and wellbeing (HSW) management system, including HSW policies, communication, consultation and training
Industrial Relations Strategy & Advice	<ul style="list-style-type: none">• manage this Policy through its lifecycle
Second line of defence	
Line 2 Risk function	<ul style="list-style-type: none">• provide insight, review and challenge to first line risk activities in relation to this policy
Third line of defence	
Audit	<ul style="list-style-type: none">• the responsibilities of Audit are outlined in the 3LOD Model Standard

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