



Discrimination, harassment, bullying and related conduct policy

1. Overview

1.1 Purpose

This Discrimination, harassment, bullying and related conduct policy (the Policy) sets out our conduct expectations in relation to unlawful discrimination, harassment, bullying, adverse action, vilification and victimisation.

This Policy is one measure directed at preventing such conduct and 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, of Westpac in Australia.

2. Policy requirements

2.1 Westpac's expectations

Westpac 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 – this conduct is unlawful and unacceptable. Providing a healthy, safe and inclusive workplace supports our people to deliver on our Purpose, *Taking action now to create a better future*, 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 or wellbeing of others in the **workplace** which includes when working from home and at work-related events (including business trips/travel, conferences and functions).

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

This means you must:

- behave professionally and treat others with dignity, courtesy, and respect in the workplace; and
- not unlawfully discriminate, harass, bully, take adverse action against, victimise or vilify anyone in the workplace; and
- not request, instruct, induce, authorise, coerce, or otherwise encourage another person to engage in unlawful conduct covered by this Policy; and
- be 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); and
- protect and support, and not disadvantage or unfairly treat, a person for making or being involved in a complaint about conduct covered by this Policy.

The conduct expectations in this Policy extend to "out-of-hours" conduct where there is a relevant connection to your engagement with Westpac.

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:

- Westpac 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 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 health, safety and wellbeing (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 and gatherings 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 Code of Conduct – expectations for People Leaders include:
 - role modelling our Behaviours and setting clear expectations to deliver the outcomes we expect
 - creating a supportive environment where team members feel safe to speak up knowing they will be listened to, to challenge, and to use judgement
 - recognising those who live our Behaviours and deliver the outcomes we expect
 - asking ‘Should We?’ as well as ‘Can We?’ to ensure good judgement in decision making.

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 unlawful to discriminate against someone on the grounds of any **protected attribute** under relevant Federal / State / Territory legislation. Such grounds include:

- age
- irrelevant medical or criminal record
- marital or relationship status, parental status, pregnancy or potential pregnancy, breastfeeding, family responsibilities, carer’s responsibilities
- physical features
- physical or mental disability
- political opinion, belief or conviction
- race, colour, descent, national or ethnic origin, social origin, immigration status
- religion, religious beliefs or conviction, religious appearance or dress, religious activity
- sex, sexual orientation, gender identity or intersex status
- subjection to domestic or family violence
- union membership, protected industrial activity
- work health and safety role or activity.

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; and
- when interacting with other people including other employees, contractors, other workers, 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 their race, or because their disability or carer’s responsibilities mean 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 those of her (former) male partner.

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 you can talk to your People Leader.

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 with 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. Disability harassment may include 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. LGBTQIA+ status harassment may include 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) Racial hatred may include 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 all the circumstances, would consider the behaviour to be unreasonable. Unreasonable behaviour includes behaviour which is offensive, humiliating, intimidating or threatening.

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; and
- 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;
- intentionally 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; and
- excessive scrutiny at work.

What is *not* bullying?

Not all behaviour that might make a person feel upset or anxious will constitute bullying. Differences of opinion and disagreements will generally not be considered bullying.

Reasonable management action taken in a reasonable way is also 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;
- placing an employee on a performance uplift/action plan;
- giving lawful instructions about the performance of duties or exercising reasonable supervision;
- implementing organisational changes or restructures, and/or transferring a worker for operational reasons;
- not selecting a worker for promotion where a reasonable process is followed; and

- 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 an employee and other employees of the employer
- discriminating against a prospective employee in the terms or conditions on which employment is offered
- refusing to hire 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; and
- *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 an 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 person'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 remuneration or the terms and conditions of their employment that would be reasonably needed to work out their remuneration (such as their hours of work); and
 - ask other employees (with the same or a different employer) about their remuneration or the terms and conditions of their employment that would be reasonably needed to work out their remuneration
- workplace delegates' rights.

2.6 What is vilification?

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

- accommodation status
- age
- disability
- employment status
- HIV/AIDS/hepatitis status
- irrelevant medical or criminal record
- marital or relationship status, pregnancy, breastfeeding, or family or carer's responsibilities
- personal association with a person with protected attribute
- political opinion, affiliation or activity
- race, colour, national or ethnic origin, language (including sign language)
- religion, religious belief or activity, religious conviction
- sex, sexual orientation, gender identity, sex characteristics, intersex status, being transgender, lawful sexual activity
- subjection to domestic and family violence
- trade union or employer association activity

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 think something is not right or if you have any concerns. People who raise concerns should feel confident to do so without fear of victimisation. We do not tolerate victimisation.

You can raise a concern about discrimination, harassment, bullying, adverse action, vilification or victimisation by an employee or contractor via:

- Workplace Resolutions
- your People Leader
- any senior leader in your business area.

When we receive a concern, we will:

- allocate it to a member of the Workplace Resolutions team;
- consult with you on how to address your concern(s) and take into account the outcome you are seeking;
- to the extent possible, take steps to preserve your anonymity if this is your preference. However this may not always be possible and at times it may be appropriate to conduct a formal investigation into your concerns where allegations may need to be put to the person(s) whose conduct you have raised concern about;
- if a formal investigation is appropriate, consult with you on how the investigation will be conducted (this may involve a formal interview with you and witnesses) and take your preferences into account
- 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).

If your concern relates to conduct by a customer or other third party you should report it via Report a Security Incident.

Being an Upstander

An Upstander is someone who speaks up and takes action against behaviours and activities that negatively impact others, by encouraging inclusive behaviour and challenging subtle acts of exclusion. For resources and information on how to be an Upstander refer to our Upstander page.

Reporting a HS&W incident

If you need support with a health, safety and wellbeing related incident and you are unsure about the right channel to raise it, you can report it via our 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 breach this Policy we will take disciplinary action against you in accordance with the Westpac Consequence Management Framework (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
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 concern 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 advice to People Leaders / decision-makers for addressing these matters (per the Westpac CMF)
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
Policy Owner	<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">• the role of Line 2 Risk function is set out in the 3LOD Model Standard
Third line of defence	
Audit	<ul style="list-style-type: none">• the responsibilities of Audit are outlined in the 3LOD Model Standard

Disclaimer

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