

NOTE: For the purpose of this document the term “The Company” refers to Toowoomba Regional Group Apprenticeship Company Pty Limited, Downs Group Training and DGT.

WORKPLACE HARASSMENT, BULLYING AND VIOLENCE POLICY

The Company is committed to providing staff, apprentices, trainees, participants in training, Host Businesses and Clients an environment free from workplace harassment, bullying, discrimination and violence.

Definition

Workplace harassment - the legal definition of harassment is that harassment occurs where a person is subject to unwanted, unsolicited and repeated conduct, which has the purpose or effect of violating their dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

Discrimination

Refer OP-012 Anti-Discrimination and Sexual Harassment Policy

Workplace bullying - is the '*repeated less favourable treatment* of a person by another or others in the workplace or training environment, which may be considered *unreasonable and inappropriate* workplace practice'. It includes *behaviour* that intimidates, offends, degrades or humiliates a worker, possibly in front of co-workers, clients or customers

Objectives

The Company aims to achieve the following

- ensure all employees and participants are aware of their rights and obligations in regards to workplace harassment, bullying and violence
- promote a no tolerance policy to any form of workplace harassment, bullying or violence
- develop an environment which promotes respect for persons, integrity, equitable treatment and natural justice.
- comply with all regulatory and legislative requirements re workplace harassment, bullying and violence

The Company will

- ensure all reports of bullying will be treated seriously and investigated promptly, confidentially and impartially
- encourage all employees and participants to report workplace harassment, bullying and violence to the appropriate personnel
- ensure all employees or participants who make complaints or witness workplace harassment, bullying or violence are not victimised
- take all necessary action against any person who harass, bully or are violent towards a co-worker or participant, including but not limited to warnings, counselling or dismissal depending on the seriousness of the offence
- provide guidelines and procedures to assist the prompt resolution of complaints

Under State and Federal legislation The Company has a legal responsibility to comply with any measures that promote health and safety in the workplace and the training environment.

Bullying may not be unlawful under federal and state anti-discrimination legislation unless the bullying is linked to, or based on, one of the attributes covered by various federal anti-discrimination legislation (eg. age, sex, race, disability etc.) (Refer The Company's Operating Principles for policies on discrimination, harassment and victimisation)

However, workplace bullying may amount to an offence under the Criminal Code of Queensland where it involves a threatened or actual assault. Under common law, employers who do not take suitable precautions to protect workers from workplace bullying may be liable for any physical or psychological injury suffered by the victim. Refer OP-038 Victimisation Policy

Legal risks

As noted, there is no single law dealing with bullying. However, there is potential for claims arising from bullying to be pursued under various laws. Common claims include workers' compensation claims for psychological injuries arising from bullying and constructive dismissal claims from employees who resign their employment due to workplace bullying. Other potential claims include negligence claims, contract claims and claims under OHS, discrimination or criminal laws.

In New South Wales, there is a defence under workers' compensation laws for psychological injuries that are wholly or predominantly caused by reasonable action with respect to transfer, demotion, promotion, performance appraisal, discipline, retrenchment, dismissal and employee benefits.

Difference between harassment and bullying

Acts of harassment usually centre on unwanted, offensive and intrusive behaviour with a sexual, racial or physical component. Definitions of harassment and bullying vary and there is much overlap. Some examples of the differences between harassment and bullying are –

Harassment	Bullying
Usually linked to sex, race, prejudice, discrimination	Although bullies are deeply prejudice, sex, race and gender play little part its usually discrimination on the basis of competence
Tends to focus on the individual because of what they are (eg black, female, disabled)	Anyone will do, especially if they are competent, popular and vulnerable
Harassment often has a strong clear focus (eg race, sex, disability)	The focus is on competency (envy) and popularity (jealousy)
Everyone can recognise harassment	Few people recognise bullying
Has a strong physical component	Almost exclusively psychological
Harassment is often for peer approval	Tends to be secret behind closed doors with no witness

Workplace bullying is the '*repeated less favourable treatment* of a person by another or others in the workplace, which may be considered *unreasonable and inappropriate* workplace practice'. It includes *behaviour* that intimidates, offends, degrades or humiliates a worker, possibly in front of co-workers, clients or customers.

- *Repeated*: refers to the persistent nature of the behaviour, not the specific form the behaviour takes. Behaviour is considered 'repeated' if an established pattern can be identified
- *Less favourable treatment*: treatment that is not auspicious, encouraging, approving or pleasing
- *Unreasonable and inappropriate*: behaviour that a reasonable person, having regard to all the circumstances, would expect to intimidate, offend, degrade, victimize, humiliate, undermine or threaten others, or would be considered unprofessional and inappropriate to the workplace or circumstances

- *Behaviour*: includes actions of individuals or a group, and may involve using a system of work as a means of intimidating, offending, degrading, victimizing, humiliating, undermining or threatening others.

Bullying may be overt or covert

overt eg.

- abusive behaviour such as threatening gestures or actual violence
- aggressive or abusive or offensive language, including threats or shouting
- using a person as a constant butt of jokes
- derogatory or offensive nicknames
- constant unreasonable and unconstructive criticism
- public reprimand

covert eg.

- deliberate exclusion, isolation or alienation
- placing unreasonable high work demands on one employee but not on others
- allocation of demeaning tasks
- unreasonable ignoring the employee
- undermining another employee
- deliberately withholding information a person needs to exercise his/her role

Workplace harassment - The legal definition of harassment is that harassment occurs where a person is subject to unwanted, unsolicited and repeated conduct, which has the purpose or effect of violating their dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

Workplace harassment covers a wide range of behaviours ranging from subtle intimidation to more obvious aggressive tactics. Some examples of workplace harassment may include (but are not limited to):

- humiliating a person through sarcasm, insults, criticism and/or gestures
- offensive e-mail messages or computer screen savers
- displaying offensive posters, calendars, or magazines etc
- abusing a person loudly usually when others are present
- constant ridicule and being put down
- spreading gossip or false, malicious rumours with the intent to cause the person harm
- repeated threats of dismissal or other severe punishment for no reason

The Company recognises that workplace harassment may harm the health and safety of employees and other persons, and is committed in its obligations to identify and manage exposure to risk of death, injury or illness created by workplace harassment.

Harassment or bullying is NOT

- constructive and fair criticism of an employee's or participant's conduct or work performance OR
- legitimate management responses to pressurised situations that require immediate action OR
- occasional differences of opinions and non-aggressive conflicts and problems in working relations

Victimisation – Refer Victimisation Policy OP-038

Victimisation occurs when a person does or threatens to do something that will be detrimental to another person. Victimisation usually involves retaliation or retribution and is therefore contrary to the policy's emphasis of responding to complaints fairly and efficiently.

Reporting workplace harassment, bullying or violence

The Company complaints handling procedures are based on the principles of natural justice and all complaints are handled in a prompt, supportive, consistent and confidential manner. Issues of harassment,

bullying or violence can be dealt with informally or formally depending upon the circumstances and people involved.

The Company encourages all employees and participants to take appropriate action. Harassment, bullying or violence will not be tolerated, and it will not go away unless something is done about it. If employees or participants suspect or feel they are being harassed, bullied or the victim of violence, there are a number of options available, including:

The following options are available to all employees:

- an informal approach, speaking directly to the person concerned, or
- contact The Company's Harassment and Anti-Discrimination Officers, who will take your complaint seriously and will investigate your complaint. The investigation will be kept confidential. You will be kept informed of the results of the investigation and what action will be taken.

If you are not satisfied with the support and handling of any complaints then you may wish to contact

- Anti-Discrimination Commission Queensland at Level 20, 53 Albert Street, Brisbane, 4001 or on (07) 3239 3365 or toll free 1300 130 670
- Anti-Discrimination Board of NSW - telephone on (02) 9268 5544 or Toll free Enquiries: 1800 670 812 (if you are calling from regional NSW); or
- your union who may be able to provide you with advice.

Reference

Note – Cth refers to Commonwealth

- Anti-Discrimination Act QLD
- Anti-Discrimination Act NSW
- Criminal Code of Queensland
- Work Health and Safety Act (Qld and NSW)
- Workcover Queensland Act
- Workplace Relations Act (Cth)
- Industrial Relations Act
- Prevention of Workplace Harassment Advisory Standards
- Australian Human Rights Commission Act (Cth)
- Disability Discrimination Act (Cth)
- Racial Discrimination Act (Cth)
- Sex Discrimination Act (Cth)
- Disability Discrimination Act (Cth)
- Disability Standards for Education (Cth)
- Age Discrimination Act (Cth)
- Workplace Gender Equality Act (Cth)

Resources/Links

www.bullyonline.org

www.humanrights.gov.au

www.qwws.org.au

www.workershealth.com.au

www.industrialrelations.nsw.gov.au

www.lawlink.nsw.gov.au