

# Respectful Workplace Policy



## 1. Policy statement

The Audit Office of New South Wales (Audit Office) is committed to providing a safe, inclusive and friendly workplace environment, where the contribution of everyone is valued and respected. As part of this commitment workplace bullying and harassment will not be tolerated. These behaviours can put at risk the health, safety and wellbeing of all employees.

Everyone working at the Audit Office should expect to be treated and treat others with respect, dignity and fairness and abide by the Audit Office's Code of Conduct.

This policy applies to all Audit Office employees, including contractors and temporary employees.

## 2. Purpose

The purpose of this policy is to prevent and combat workplace bullying and harassment. It defines unacceptable behaviours and employee and manager responsibilities. The Audit Office's Grievance Policy should be referred to when lodging a complaint or grievance.

## 3. Legislation and related documents

The key legislation and policies include:

- Audit Office's Code of Conduct
- *Work Health and Safety Act 2011*
- *NSW Anti-Discrimination Act 1977*
- *NSW Industrial Relations Act 1996*
- *Crimes Act 1990*
- *Fair Work Act 2009*
- Dignity and Respect in the Workplace Charter, Unions NSW, 2013
- The Code of Ethics and Conduct for NSW Government Sector Employees 2015
- Guide for preventing and responding to workplace bullying, Safework Australia 2016
- Respectful Workplace with Blythe Rowe Training Manual.

## 4. Definitions

**Employee** – means anyone who is working for the Audit Office including temporary or permanent employees

**Discrimination** – is when someone, or a group of people, is treated less favourably than another person or group because of their: race, colour, national or ethnic origin; socio-economic status; sex; pregnancy or marital status; age; disability; religion; sexual preference; and trade union activity

## 5. What is bullying?

### 5.1 What is bullying?

Bullying is repeated unreasonable behaviour directed towards an employee or group of employees that creates a risk to health and safety. It is behaviour which is offensive, intimidating, intended to humiliate or threaten and undermine. Unreasonable behaviour is behaviour that a reasonable person, having regard to the circumstances, would see as victimising, humiliating, undermining or threatening.

Workplace bullying will generally meet the following criteria:

1. It is repeated and systematic.
2. It is unwelcome and unsolicited.
3. The recipient/s consider/s the behaviour to be offensive, intimidating, intended to humiliate or threaten.
4. A reasonable person would consider the behaviour to be offensive, intimidating, intended to humiliate or threaten.

## **5.2 Who is bullying directed towards?**

Bullying can be directed in a range of ways in a workplace:

- downwards (from supervisors or managers to employees)
- upwards (from employees to supervisors, managers or more senior staff)
- sideways (between employees or colleagues)
- from a client to Audit Office employees and vice versa.

Bullying can be directed at a single employee or at more than one employee. It can be carried out by one or more employees.

## **5.3 Examples of direct and indirect bullying behaviour**

A broad range of behaviours can be bullying, and these behaviours can be direct or indirect bullying. Examples of direct forms of bullying include:

- verbal or email abuse, putting someone down
- spreading rumours or innuendo about someone
- deliberately tampering with someone's personal property or work equipment.

Examples of indirect bullying include:

- unjustified criticism or complaints
- deliberately excluding an employee from workplace activities
- deliberately denying access to information or other resources or withholding information vital for effective work performance
- setting tasks that are unreasonably above or below an employee's ability
- deliberately changing work arrangements, such as leave, to inconvenience a particular employee
- setting work deadlines that are very difficult to achieve
- excessive scrutiny at work.

# **6. Social media and cyber bullying**

## **6.1 What is cyber bullying?**

Cyber-bullying is bullying using technology. It may involve using the internet (e.g. email, social media), mobile phone (e.g. SMS, MMS), emerging technologies or other technology like a camera to bully and hurt or embarrass someone. It can happen anonymously, at any hour, anywhere and reach a vast audience.

## **6.2 Cyber bullying and the workplace**

Although cyber-bullying usually occurs outside the workplace, if it can be shown to be incidental to the victim's work e.g. cyber-bullying a work colleague with explicit or threatening Facebook posts, it may be grounds for disciplinary action including dismissal. Liability to prevent foreseeable harm may rest with the employer in certain circumstances. (Refer to the Audit Office's Social Media Policy.)

## 7. Harrassment

### 7.1 What is harassment?

Harassment is when someone is intimidated, insulted, belittled or humiliated because of their race, sex, pregnancy, marital status, parental status, transgender, homosexuality, disability, age, carer's responsibility, political or religious conviction, or membership of a union. Harassing behaviour is based on prejudice and discrimination. Harassment can be directed at a client by an Audit Office employee or vice versa.

Harassment is any form of behaviour or conduct that:

- the other person does not want and does not return
- offends, humiliates or intimidates them
- creates a hostile environment.

Harassment is a form of unlawful discrimination. It may be persistent or an isolated incident and can also be unintentional.

**NOTE:** Harassment can be part of a bullying scenario. With bullying, a person is not necessarily targeted because of prejudice and discrimination.

### 7.2 Who might commit workplace harassment?

Harassment can take place between:

- an employee and a manager or supervisor
- employees and colleagues
- an employee and another person in the workplace, for example a client or their employees

### 7.3 Examples of behaviours that could constitute harassment

There are many types of verbal, non-verbal and physical behaviour that could amount to harassment. The basic rule is that if someone else finds behaviour harassing then it could be harassment.

Harassment can include behaviour such as:

- telling insulting jokes about particular racial groups
- sending explicit or sexually suggestive emails
- displaying offensive or pornographic posters or screen savers
- making derogatory comments or taunts about someone's race or religion
- asking intrusive questions about someone's personal life, including their sex life
- abusing a person loudly, usually when others are present
- repeated threats of dismissal or other severe punishment for no reason
- leaving offensive messages on email or telephone
- sabotaging a person's work, for example, by deliberately withholding or supplying incorrect information, hiding documents or equipment, not passing on messages and getting a person into trouble in other ways
- maliciously excluding and isolating a person from workplace activities
- persistent and unjustified criticisms, often about petty, irrelevant or insignificant matters
- humiliating a person through gestures, sarcasm, criticism and insults, often in front of clients, management or other employees.

## 8. What is not bullying or harassment?

The following do not constitute bullying or workplace harassment:

- acts of unlawful discrimination, vilification or sexual harassment (e.g. assault) that are criminal offences and are therefore managed by the police
- a single incident of bullying
- legitimate and reasonable managerial actions to direct and control how work is done in the workplace do not constitute workplace bullying or harassment.

Legitimate managerial actions may include:

- providing appropriate feedback on an employee's work performance (the fact that an employee may find the feedback upsetting, does not of itself constitute bullying or harassment)
- managing performance or underperformance issues
- issuing reasonable directions about work allocation and performance, and about attendance at the workplace
- rotating employees between teams or taking action to make an employee's position redundant where the process is conducted fairly and equitably
- making justifiable decisions related to recruitment, selection and other development opportunities
- ensuring that workplace policies are implemented
- managing allegations of misconduct and utilising disciplinary actions where appropriate
- overseeing injury and illness processes in accordance with work health and safety, injury management and workers compensation legislation and policies.

In some cases, offence, may be taken where no bullying or harassment has actually occurred, and in other extreme circumstances the incident could amount to criminal behaviour requiring more immediate and extreme action.

## 9. Preventing disrespectful behaviours – risk management approach

Under the *Work Health and Safety Act 2011*, any workplace hazard that may exist in the workplace such as bullying and harassment should be treated through a risk management approach.

### 9.1 Assessing risk

There is a risk of workplace bullying or harassment whenever people work together. The following bullying and harassment risk factors will be considered by the Audit Office and supervisors/managers when assessing risks:

- organisational change (e.g. change in supervisor/manager, significant technological change, restructuring)
- leadership styles which are strict and directive, not allowing workers to be involved in decision- making or not allowing flexibility
- supervision which is inadequate or absent, with responsibilities being inappropriately delegated to subordinates
- lack of appropriate work systems e.g. lack of resources, lack of experience and role definitions, and unrealistic performance measures
- poor workplace relationships e.g. unmanaged and unresolved conflicts
- workplace characteristics:
  - employees that are vulnerable, including young employees, new employees and injured employees
  - teams that have an over-representation of, for example, long-standing employees with an embedded culture
  - employees in a minority because of, for example, ethnicity, religion or sexual preference.

## 9.2 Minimising risk

The Audit Office has a responsibility to minimise risk and will ensure potential risks are mitigated through the Audit Office WHS Risk Management Framework and its employees and managers.

## 10. Rights and responsibilities

There are a range of actions that can be taken by the Audit Office and its employees to prevent and minimise risks:

### 10.1 The Audit Office

The Audit Office will:

- review this policy and the Audit Office's Grievance Policy in consultation with the Work Health and Safety Committee
- arrange workplace bullying and harassment prevention training at induction and regular refresher training
- develop and maintain effective communication throughout change processes that impact work health and safety issues
- train and support supervisors/managers in managing performance, giving feedback and seeing the signs of workplace bullying (absenteeism, poor performance)
- include leadership questions (e.g. conduct and performance) at exit interviews
- monitor workforce statistics, exit interview data and complaints for indications of unacceptable behaviours.

### 10.2 All employees

Employees have the right to have complaints and formal grievances dealt with in accordance with the Audit Office's Grievance Policy.

They have an obligation to:

- abide by the Code of Conduct and promote a positive and cooperative workplace culture
- take responsibility for their actions in the workplace, and where the actions of others are disagreeable to them, attempt to settle matters, where appropriate, with that person or persons in the first instance
- raise matters of concern at an early stage and actively participate in the grievance management process in a respectful, honest and ethical manner.

### 10.3 Managers

Managers are responsible for:

- enforcing clear standards of behaviour for their employees in line with the Audit Office's Code of Conduct
- acting immediately to eliminate any disrespectful behaviour as soon as they become aware of it
- discussing this policy at team meetings and induction
- monitoring relationships within the work group/team to see how new/vulnerable employees are being treated
- managing bullying and harassment complaints fairly, confidentially, promptly, and in accordance with the grievance procedures
- ensuring action and recommendations arising from cases of bullying and harassment are implemented in a timely manner
- ensuring all actions taken to manage a bullying or harassment complaint are appropriately documented. A record should be made of all meetings and interviews detailing who was present and the agreed outcomes.

## **10.4 Those involved in a complaint/grievance**

Those involved in a complaint or grievance have both the right to confidentiality, and the responsibility for maintaining confidentiality.

## **11. Reporting – making a complaint or lodging a grievance**

Please refer to the Audit Office Grievance Policy for advice on how to resolve a problem related to disrespectful behaviour or how to lodge a complaint or grievance.

## **12. Potential treatment of breaches of policy**

Any complaint raised or grievance lodged in relation to an allegation of bullying or harassment will be treated seriously. It will be dealt with impartially and sensitively and managed in a timely and appropriate manner.

Where an investigation has substantiated that workplace bullying or harassment occurred, a range of actions can be taken, depending on the nature of the behaviour. These actions include:

- directing an employee to stop the behaviour
- inviting an apology (verbal or written)
- an official warning recorded on the employee's personnel file
- individual training
- providing mediation or other dispute resolution processes
- coaching, counselling and/or mentoring an employee/s
- disciplinary action
- termination of employment.

In some circumstances, an investigation may find that a report of workplace bullying cannot be substantiated, and no further action can be taken, beyond reviewing bullying control measures.

## **13. Contact Point**

If employees have questions about this policy, they should contact the Executive Manager Human Resources.

## **14. Review**

It is intended this policy will be reviewed every two years or earlier if significant new information, legislative or organisational change warrants an update to the policy.