

# Anti-Discrimination, Harassment & Bullying Policy

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## 1. Introduction

ANC is committed to creating a work environment which is free from discrimination, harassment and bullying, and where all people are treated with dignity, courtesy and respect.

## 2. Purpose

To make all participants aware of unlawful behaviour for workplace discrimination, harassment and bullying.

Understanding what is unlawful may prevent actions of bullying, exclusions, unfair treatment and other negative or demeaning behaviours and in place building a happy and constructive working relationship. This will allow all people to respect and value other people's differences which encourages constructive discussion in differences of views and approaches, allowing people to have open and constructive communications.

## 3. Scope

This policy applies to all workplace participants which include; employees, contractors (and their employees), consultants, visitors, volunteers and labour hire of ANC.

It applies to any workplace participant whether they are at the workplace or off site, at work-relation functions (including social functions and celebrations), while on trips and attending conferences or training seminars.

Our clients and customers are also protected by law from being discriminated or bullied and harassed.

## 4. What is Unlawful Discrimination

Over the past 30 years the Commonwealth government and the State and Territory governments have introduced laws to help protect people from discrimination and harassment.

Commonwealth laws and State/Territory laws generally overlap and prohibit the same type of discrimination and harassment, but in some cases the laws apply in slightly different ways.

Under these laws' discrimination is made unlawful on various grounds which include:

- Race (including colour, descent or ancestry, nationality, national or ethnic origin);
- Age (whether young or older);
- Impairment (including biological, functional, learning, physical, sensory, mobility, cognitive, psychological, psychiatric impairment or the presence of an organism capable of causing disease);

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- Religious belief or activity;
- Sex or gender identity;
- Relationship status (including being married, single, divorced, separated, de factor or in a same sex relationship);
- Pregnancy, breastfeeding, parental status (including being or not being a parent, guardian, foster parent, adoptive parent or step parent);
- Family responsibilities (including the responsibility to care for and support a dependent child or immediate family member);
- Lawful sexual activity as a sex worker;
- Trade union activity;
- Political belief or activity;
- Association with someone else who is identified because of one of the above attributes.

Other behaviour that is against the law includes:

- Seeking unnecessary information on which discrimination might be based;
- Victimisation because a person has made a complaint, agreed to be a witness or has had a complaint made against them;
- Being treated less favourably because they belong to a particular group or category of people
- Federal anti-discrimination legislation also prohibits discrimination on the basis of criminal record, medical record or social origin.

Discrimination in the workplace can be **direct** or **indirect**.

**Direct discrimination:** occurs when a person (or a group of people) is singled out for worse treatment, compared to others in similar circumstances, because of one or more of the attributes listed above. Direct discrimination may involve:

- Making offensive 'jokes' about another worker's racial or ethnic background, sex, sexuality, age or impairment;
- Expressing negative stereotypes about particular groups or using stereotypes as a basis for decisions about work e.g. "Women with young children shouldn't work" or "Older workers can't learn new skills."
- Using selection processes based on irrelevant attributes such as age, race or impairment rather than on skills really needed for the job.

**Indirect discrimination:** occurs when one rule applies to all, but in fact disadvantages a person (or group of people) because they are unable, or less able to comply with the rule because they have an attribute listed above. The fact that the disadvantage was not intended is not an excuse. For example:

- Requiring everyone to be available for all shifts might be unfair to a person with responsibilities to care for children or an elderly parent.

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Only hiring people who have never had a back injury or a workers compensation claim might rule out an employee whose health has returned and can do the job well.

- Not considering the provision of some reasonable adjustments would disadvantage a person with an impairment, who may be able to perform the essential parts of the job in a different way.

There are exceptions for anti-discrimination law that may apply in some situations- for example, it may not be unlawful to discriminate because of the inherent requirements of a particular job.

## 5. What is Unlawful Harassment

In **general**, unlawful harassment is any form of behaviour or conduct that is not wanted and not asked for and that a reasonable person would have anticipated would:

- Humiliate someone; or
- Offend someone; or
- Intimidate someone

and where the behaviour or conduct is based on one of the grounds from the list of discrimination listed above (point 4).

Examples of behaviour that constitute unlawful harassment include, but are not limited to:

- jokes or derogatory comments based on another employee's race, disability, pregnancy, etc
- verbal abuse or comments that put down or stereotype people because of their race, sexuality, disability, etc
- mimicking someone's accent, or the habits of someone with a disability
- offensive gestures based on race, sexuality, pregnancy, disability, etc
- displaying, viewing or circulating racist, homophobic or other offensive material

**Sexual harassment** is explicitly categorised as serious misconduct which is in line with Fair Work Amendment (Respect at Work) Regulations 2021. It can take many different forms and may include:

- pressure or demands for dates or sexual favours
- unnecessary familiarity - for example, constantly staring at a person or deliberately brushing against a person
- unwanted physical contact - for example, touching or fondling
- sexual jokes or innuendo
- offensive telephone calls, emails or text messages
- offensive sexual gestures
- unwelcome comments or questions about a person's sex life
- displaying, viewing or circulating sexual material through, for example, e-mail, posters or pictures

Conduct that is welcome or consensual is not unlawful. However, you should take great care before engaging in conduct that you believe is welcome or consensual. In considering whether conduct is welcome or consensual, you need to take into account that some people may not be able to communicate their lack

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of consent or that the behaviour is not welcome because of someone's personality or because of the relative status of the people involved.

You should also remember that even conduct that is welcome or consensual may not be appropriate in the workplace. It is your responsibility to ensure that you do not engage in conduct that is inappropriate.

## 6. What is Bullying

**Workplace bullying** is repeated, unreasonable behaviour directed toward an employee or group of employees that creates a risk to health and safety.

Unreasonable behaviour means behaviour that a reasonable person having regard to all the circumstances would expect to humiliate, intimidate or threaten another person. Such behaviour can include an individual's or group's actions or practices which humiliate, intimidate or threaten another person.

While bullying usually occurs between employees or other workplace participants, the actions of customers and suppliers toward employees (or vice versa) may also amount to bullying.

The following examples of behaviour where directed towards an individual or group of employees and repeated or occurring as part of a pattern of behaviour may amount to bullying:

- verbal abuse
- excluding or isolating employees
- threats
- demeaning language
- physical or verbal intimidation
- ganging up
- outbursts of anger or aggression
- assigning meaningless tasks unrelated to an employee's job
- deliberately withholding information that is vital for effective work performance

This list is not exhaustive. Other types of behaviour may also constitute bullying. However, feedback given by managers in an appropriate manner during performance/behavioural related discussions such as performance reviews or counselling does not in itself constitute bullying.

Bullying may also amount to unlawful discrimination or harassment.

## 7. Roles & Responsibilities

### *Managers and Supervisors*

- Provide induction and information to staff in this policy;
- Model positive and constructive behaviour in their treatment of workers;

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- Monitor their workgroups and act if they become aware of any potential hazards;
- Address breaches of this policy.

### Workers

- Treat fellow workers with dignity and respect;
- Comply with this policy by not discriminating against or harass for any unlawful reason;
- Where possible, report incidences of breaches of this policy to supervisors or management.

## 8. What can you do?

If you feel that you are being bullied, unlawfully discriminated against or harassed do not ignore the problem thinking it will go away. There is action which you can take that may resolve the problem, such as:

- where you feel comfortable, ask the person to stop, or make it clear that you find the behaviour offensive, unwelcome or inappropriate. The person concerned may not be aware that their behaviour is intimidating, offensive or unwelcome and should stop once they are told; or
- raise the grievance with your immediate manager (as per the *ANC Grievance Resolution Policy*); or
- if it is not appropriate to raise with your manager (e.g. if the grievance is about your manager), raise the grievance with either your next level manager or your Human Resources representative as soon as possible after the incident(s) have occurred; or
- If you wish to remain anonymous, you can direct your complaint to ANC's National Office, addressed to the following, and marked *Private & Confidential* (however, remaining anonymous may affect the ability to investigate the matter properly and to communicate with you about your written complaint):

*ANC People & Culture Department  
PO Box 8246  
Blacktown NSW 2148*

Whilst you may feel the need to tell a trusted friend or work colleague about the matter, you should be careful. Accusations of bullying or unlawful discrimination/harassment can harm the reputation of those involved and could ultimately lead to an action for defamation. Do not allow rumours to spread.

## 9. What happens if a grievance is raised?

If a grievance is raised relating to discrimination, harassment or bullying, your grievance will be dealt with in accordance with the *ANC Grievance Resolution Policy*.

## 10. Consequences of breach of the policy

Any person who makes a complaint of discrimination or sexual harassment will not suffer any victimisation by ANC for making the complaint. This also applies to people who agree to be a witness in a complaint or have a complaint made against them.

**Disciplinary action** will be taken by ANC against any worker found to have breached this policy. Action will be appropriate to the breach and may include: an official warning and note on the person's personnel file; a

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formal apology; counselling; demotion, transfer, suspension; or dismissal for very serious matters (as per the *ANC Grievance Resolution Policy*).

## 11.Acknowledgements

References:

- Australian Capital Territory – *Workplace Health and Safety Act 2011*
- New South Wales - *Workplace Health and Safety Act 2011*
- Northern Territory – *Work Health and Safety (National Uniform Legislation) Act 2011*
- Queensland – *Work Health and Safety Act 2011*
- South Australia - *Work Health and Safety Act 2012*
- Tasmania – *Work Health and Safety Act 2012*
- Victoria – *Occupational Health and Safety Act 2004*
- Western Australia – *Occupational Safety and Health Act 1984*
- Australian Capital Territory – *Discrimination Act 1991*
- New South Wales – *Anti-Discrimination Act 1977*
- Northern Territory – *Anti-Discrimination Act 2015*
- Queensland – *Anti-Discrimination Act 1991*
- South Australia – *Equal Opportunity Act 1984*
- Tasmania – *Anti-Discrimination Act 1998*
- Victoria – *Equal Opportunity Act 2010*
- Western Australia – *Equal Opportunity Act 1984*
- *Age Discrimination Act 2004*
- *Disability Discrimination Act 1992*
- *Racial Discrimination Act 1975*
- *Sex Discrimination Act 1984*.
- Fair Work Amendment (Respect at Work) Regulations 2021

## 12.Other Related Documents

- *ANC Grievance Resolution Policy*

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