

Workplace Sexual Harassment, Bullying, Discrimination and Victimisation Policy

(Preventing & Managing guide including Support Services)

Prepared by the
Australian Trainers' Association



Version 2 August 2025



Respect at Work reforms - Sexual Harassment, Bullying, Discrimination & Victimisation - Prevention & Management Guidelines

PREAMBLE

Under the *Sex Discrimination Act*, organisations have a positive duty to eliminate, as far as possible, the following unlawful behaviour from occurring:

- Discrimination on the ground of sex in a work context
- Sexual harassment in connection with work
- Sex-based harassment in connection with work
- Conduct creating a workplace environment that is hostile on the ground of sex

Related acts of victimisation. Employers are equally obligated to mitigate and respond to instances of bullying and discrimination in the workplace.

To assist Trainers' discharge this responsibility, the ATA has produced this ***Respect at Work - Sexual Harassment, Bullying, Discrimination and Victimisation policy***, which can be used as a guide when introducing measures to educate, manage and/or counter inappropriate behaviours of this nature in the workplace.

INTRODUCTION

It is important for all Trainers (hereinafter referred to as "Employers") to introduce policy to reduce risks associated with workplace sexual harassment.

This policy will: -

- Provides information on what behaviour is deemed to be sexual harassment, bullying, discrimination and victimisation;
- Detail the steps that can assist the Employer to formulate policy to prevent and manage sexual harassment, bullying, discrimination & victimisation in the workplace;
- Disseminate available information that will assist Employers comply with their obligations relating to workplace sexual harassment, bullying, discrimination & victimisation;
- and
- Be used to improve and educate the knowledge of workers generally on the subject of workplace sexual harassment, bullying, discrimination and victimisation.

Workplace sexual harassment, bullying, discrimination or victimisation ('conduct') are issues that may occur in any workplace. Under certain conditions, anyone may be capable of this conduct. All forms of this conduct results in real cost to both your organisation and the individual. It can have an impact on an individual's health and affect their ability to do their job. It can also contribute to loss of productivity, staff turnover, absenteeism, low morale, financial costs, civil actions and penalties.

Intoxication will never excuse conduct of this nature.

Respect at Work reforms - Sexual Harassment, Bullying, Discrimination & Victimisation - Prevention & Management Guidelines

As an Employer, you are required to provide an environment that is safe for the employees and without risk to their health. This obligation extends to psychosocial hazards, which may include bullying and harassment. An employer must eliminate psychosocial risks, or if that is not reasonably practicable, minimise them so far as is reasonably practicable.

This guide will assist you in preventing and responding to conduct of this nature in the workplace.

A support services resource page is contained in this guide and is provided for your reference at pages 14 and 15. Please note, this information is current at time of publication.

Threats to harm someone, acts of violence, assault, property damage and stalking are criminal matters that should be referred to the police. Your response at the workplace should be proportionate to the seriousness of what has occurred.

Respect at Work reforms - Sexual Harassment, Bullying, Discrimination & Victimisation - Prevention & Management Guidelines

WHAT IS SEXUAL HARASSMENT?

The *Respect at Work Amendment Act 2021* defines sexual harassment as follows:

- an unwelcome sexual advance
- an unwelcomed request for sexual favours
- other unwelcome conduct of a sexual nature in relation to another person.

To be sexually harassed or to prove/identify sexual harassment has taken place in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated by the conduct. The actual motives or intentions of the person engaging in the conduct are irrelevant.

Conduct of a sexual nature in relation to another person includes:

- a sexual advance or a request for sexual favours to that person;
- conveying a message with content of a sexual nature to that person, or in the presence of that person (whether by way of SMS, email, in person or otherwise);
- staring, leering or unwelcome touching of that person, such as kissing, touching in a sexual manner, patting, pinching or unnecessary familiarity, such as deliberately brushing against the person;
- issuing gender-based insults or obscene gestures to that person, wolf-whistling or taunting that person;
- directing suggestive comments, innuendo or intrusive questions about that person's private life or body;
- displaying obscene or pornographic material to, or near, that person; and
- directing sexual banter, offensive jokes or crude conversation to or near that person.

Conduct between parties that is the subject of mutual acceptance or consent is not unwelcome and therefore not sexual harassment.

Acts of sexual harassment may also constitute criminal offences, such as:

- physical molestation or assault;
- indecent exposure;
- sexual assault and rape;
- stalking; or
- obscene communications (telephone calls, faxes, letters, emails etc.).

For more information, visit [Sexual harassment in the workplace](#).

What is Bullying?

Bullying refers to repeated unreasonable behaviour towards another person or group which creates risk to health and safety.

Bullying behaviour can range from obvious verbal or physical assault to subtle psychological abuse. It can include yelling, screaming or offensive language, excluding or isolating employees, psychological harassment, intimidation or undermining work performance by deliberately withholding information vital for effective performance.

Respect at Work reforms - Sexual Harassment, Bullying, Discrimination & Victimisation - Prevention & Management Guidelines

WHAT IS NOT CONSIDERED WORKPLACE BULLYING?

Reasonable management action is not considered workplace bullying.

It is important to distinguish between a person reasonably exercising their legitimate authority at work in a proper and reasonable way, versus instances of bullying.

Managers and supervisors have a broad range of responsibility including directing and controlling how work is performed. It is reasonable for managers and supervisors to allocate work and give fair and reasonable feedback on a worker's performance. These actions are usually not considered to be bullying if they are carried out in a reasonable manner, taking the particular circumstances into account and delivered in an objective and constructive way that is neither humiliating nor threatening.

"Dissatisfaction or grievances with organisational and management practices or poor management practices are not workplace bullying. At times people may feel that working life is unpleasant and that they are being inappropriately treated, but feeling upset or undervalued at work does not mean an individual is being bullied at work".

What is victimisation?

Victimisation occurs when a person subjects another person to a detriment because that person has, intends to, or is suspected of:

- making an allegation of a contravention of this policy, or
- giving evidence or information in connection with any investigations under the Company's Grievance Policy, or
- otherwise acting under or in relation to this policy or the Company's Grievance Policy,

resulting in the other person feel uncomfortable, isolated, unwelcome, intimidated or insecure.

What is discrimination?

Discrimination occurs when a person, or a group of people, is treated less favourably than another person or group due to a protected personal characteristic.

It is important to understand that a one-off incident can constitute discrimination.

Discrimination can occur in any of the relationships and interactions you have while employed at the Company for instance with a colleague, client or service provider.

When is sexual harassment or victimisation unlawful?

It is unlawful under anti-discrimination legislation for:

- an employee of the Company to sexually harass an employee of this Company, or a person who is seeking to become an employee of this Company;

Respect at Work reforms - Sexual Harassment, Bullying, Discrimination & Victimisation - Prevention & Management Guidelines

- any person to sexually harass another person in the course of providing, or offering to provide, goods or services to that other person on behalf of this Company; or
- any person to victimise another person who lodges a complaint.

DEVELOPING A SEXUAL HARASSMENT, BULLYING, DISCRIMINATION AND VICTIMISATION POLICY

Employers should ensure they have an up to date policy which clearly addresses this conduct and is developed and reviewed in consultation with the employees' elected workplace representatives. Consultation can also be sought from the ATA. The contents of the policy must be made known to all staff, applied consistently and reviewed regularly.

As part of the policy, clear reporting, investigation and resolution procedures are essential to the good management of Sexual Harassment incidents. Reports that are ignored or mishandled decrease the likelihood that reports will be made in the future. Ignoring or mishandling a report may also send a signal that the behaviour is condoned.

The written policy is only part of the framework. Employers need to follow through with action and regular reinforcement. This includes communicating and promoting the workplace policy via notice boards, at regular team meetings, tool box talks and by talking about it.

The policy should be developed in consultation with the workplace Health and Safety Representative (HSR) and with employees, and communicated to all employees. Furthermore, the policy needs to be part of the induction process for new employees and be constantly reinforced as part of your training (including all staff, this also extends to track riders and office staff). The policy will also require a review date.

There are several ways a policy can be drafted, either in a positive way such as outlining how everyone should be treated at work, or in the alternative, such as what people shouldn't do, or both.

Act promptly when aware of conduct that may constitute workplace sexual harassment, bullying, discrimination or victimisation. It may be raised either by a written or verbal report, by directly observing the conduct, or a worker's compensation claim being made.

Responding quickly to issues raised will stop the situation happening again and send a message to employees that conduct of this nature will not be tolerated and is dealt with seriously by their Employer. **Conduct of this nature that occurs in connection with an individual's employment can be a valid reason for dismissal.**

Early intervention usually suits situations where behaviour may have just occurred or has not escalated, and is a way of resolving an issue without a formal report. **However, a formal investigation must be undertaken for serious allegations.** Discretion should be used to ensure that the conduct is not condoned by a simple cautious reprimand, but clearly identified as unacceptable, no matter how early the intervention.

Like other Occupational Health and Safety (OH&S) and Work Health and Safety (WHS) risks, workplace sexual harassment is best managed by dealing with it as soon as you (the Employer) are aware there is or may be a problem. Failure by an Employer to prevent or address conduct of this nature occurring in connection to the workplace may contribute to the working environment that creates a risk to health and safety.

Respect at Work reforms - Sexual Harassment, Bullying, Discrimination & Victimisation - Prevention & Management Guidelines

MANAGING CONDUCT OF THIS NATURE

Workplaces can help prevent sexual harassment, bullying and victimisation by creating a safe physical and online working environment, clearly outlined in the sexual harassment, bullying and victimisation policy, including:

1. Providing access to the policy, which includes support services available (such as the Employee Assistance Program), information, instructions, training and support about the importance of preventing and addressing sexual harassment in the workplace.
2. Encouraging reporting of conduct of this nature early, so as to address unwanted or offensive behaviour at an early stage.
3. Putting into place effective Grievance Procedure (see Grievance Policy) which employees can utilise to lodge complaints in relation to this conduct.
4. In the instance of sexual harassment complaints, a complaint can be anonymous and take the form of a **“notice of concern”**. This notice would highlight the facts of unwanted advances towards a person in the workforce and would not need to identify the person reporting the concerns.

The **“notice of concern”** is an effective tool that will place the alleged offender on notice that the behaviour is seen by others as unwelcomed sexual advances and is not acceptable behaviour, while not identifying the person who raised the concerns and advising that the behaviour must cease.

A **Notice of Concern** letter template can be found as **Schedule A** on page 16. **When to investigate**

Where allegations of sexual harassment, bullying, discrimination or victimisation are made, an investigation should be taken immediately in accordance with the Company’s Grievance Policy. The aim of an investigation is to work out what happened and what is the appropriate course of action.

Respect at Work reforms - Sexual Harassment, Bullying, Discrimination & Victimisation - Prevention & Management Guidelines

How to investigate

Please refer to and enact the procedures outlined in the Company's Grievance Policy.

1. Appoint an impartial and experienced person (someone neutral to all parties involved who has no conflicts of interest) to investigate. You may consider consulting with the ATA for more information about this process.
 - All matters investigated need to be treated seriously and confidentially;
 - Examine all matters impartially;
 - Identify and speak with relevant witnesses, if any, ensuring you make notes or take a statement;
 - Inform everyone involved of the possible investigation results and outcomes;
 - Report on the facts and merits;
 - Hear parties separately (versions of what allegedly happened may differ),
 - Record the facts surrounding the matter (collect any relevant information e.g. text messages, emails, social media posts etc.)
2. As per the Company's Grievance Policy, to ensure that the investigation process is conducted in a fair, objective and timely way, it is important to ensure the respondent:
 - Is fully informed of the allegations against them
 - Is fully informed of the investigation process and possible outcomes (e.g. disciplinary action)
 - Has an opportunity to seek independent advice and representation
 - Is given full opportunity to reply to the complaint/s (in writing)
 - Has their confidentiality maintained
 - Is informed how they can seek a review of a decision
3. As per the Company's Grievance Policy , at the end of an investigation, the person investigating should submit an objective report that:
 - Describes the allegations/what was reported;
 - Describes the investigation processes;
 - Outlines all relevant evidence (including who was interviewed);
 - Concludes whether conduct can or cannot be substantiated;
 - Recommends necessary procedures be put into place to ensure the alleged or confirmed; conduct does not reoccur in the future; and
 - Make any disciplinary recommendations.

The report should be acted on and its key findings communicated in a sensitive way to the complainant and respondent.

Privacy should be paramount to any investigation undertaken.

Respect at Work reforms - Sexual Harassment, Bullying, Discrimination & Victimisation - Prevention & Management Guidelines

In some circumstances, an investigation may find that a report of this conduct cannot be substantiated, however further action will be needed to ensure that all parties are aware of actions which may lead to offence or discomfort within the workplace.

How to resolve a substantiated complaint

The options to resolve a substantiated complaint will vary according to the nature of the situation, on a case-by-case basis. Actions to resolve complaints are outlined below:

- Direct an employee to stop the behaviour
- Invite an apology
- Individual training
- Coach, counsel and/or mentor an employee/s
- Use disciplinary action
- Legal action/referral to appropriate authorities.

A copy of the “Respect at Work - Sexual Harassment, Bullying, Discrimination and Victimisation” policy is overleaf; it should be displayed in a communal place within your workplace and a copy provided to all employees upon commencement.

RESPECT AT WORK - SEXUAL HARASSMENT, BULLYING, DISCRIMINATION AND VICTIMISATION POLICY

"<<<Insert Trading Name>>>" is a respectful workplace and will not tolerate sexual harassment, bullying or victimisation. The Company is committed to taking all reasonable steps to prevent an employee from committing acts of sexual harassment, bullying, discrimination or victimisation ('conduct') in connection with his or her employment or duties to the Company.

Conduct of this nature occurring after work or away from the workplace may still have a relevant connection with an employee's employment or duties. This policy applies to any conduct occurring after office hours or away from the workplace, including at social activities, where there is a possible connection with the Company.

Definitions

Sexual Harassment:

Unwelcome sexual conduct, including:

- Sexual advances or requests for sexual favours.
- Other unwelcome sexual behaviour (e.g., touching, leering, sexual comments, displaying pornographic material, sexual jokes).

Sexual harassment occurs if a reasonable person would anticipate the behaviour could offend, humiliate, or intimidate. Intentions of the person engaging in the conduct are irrelevant. Consent removes unwelcomeness, so mutual behaviour is not harassment.

Sexual harassment can occur wherever people work together and is not always intentional. Sometimes people do not realise their behaviour can be harmful to others.

The following types of behaviour could be considered sexual harassment:

- a sexual advance or a request for sexual favours to that person;
- conveying a message with content of a sexual nature to that person, or in the presence of that person (whether by way of SMS, email, in person or otherwise);
- staring, leering or unwelcome touching of that person, such as kissing, touching in a sexual manner, patting, pinching or unnecessary familiarity, such as deliberately brushing against the person;
- issuing gender-based insults or obscene gestures to that person, wolf-whistling or taunting that person;
- directing suggestive comments, innuendo or intrusive questions about that person's private life or body;

Respect at Work reforms - Sexual Harassment, Bullying, Discrimination & Victimisation - Prevention & Management Guidelines

- displaying obscene or pornographic material to, or near, that person; and directing sexual banter, offensive jokes or crude conversation to or near that person.

*This list is not exhaustive. Other types of behaviour may also constitute sexual harassment.

Victimisation

Victimisation occurs when a person subjects another person to a detriment because that person has, intends to, or is suspected of:

- making an allegation of a contravention of this policy; or
- giving evidence or information in connection with any investigations under the Company's Grievance Policy; or
- otherwise acting under or in relation to this policy or the Company's Grievance Policy,

resulting in the other person feel uncomfortable, isolated, unwelcome, intimidated or insecure.

Bullying

Bullying refers to repeated unreasonable behaviour towards another person or group which creates risk to health and safety.

Bullying behaviour can range from obvious verbal or physical assault to subtle psychological abuse. It can include yelling, screaming or offensive language, excluding or isolating employees, psychological harassment, intimidation or undermining work performance by deliberately withholding information vital for effective performance.

What is not considered workplace bullying?

Reasonable management action is not considered workplace bullying.

It is important to distinguish between a person reasonably exercising their legitimate authority at work in a proper and reasonable way, versus instances of bullying.

Managers and supervisors have a broad range of responsibility including directing and controlling how work is performed. It is reasonable for managers and supervisors to allocate work and give fair and reasonable feedback on a worker's performance. These actions are usually not considered to be bullying if they are carried out in a reasonable manner, taking the particular circumstances into account and delivered in an objective and constructive way that is neither humiliating nor threatening.

"Dissatisfaction or grievances with organisational and management practices or poor management practices are not workplace bullying. At times people may feel that working life is unpleasant and that they are being inappropriately treated, but feeling upset or undervalued at work does not mean an individual is being bullied at work".

Discrimination

Respect at Work reforms - Sexual Harassment, Bullying, Discrimination & Victimisation - Prevention & Management Guidelines

Discrimination occurs when a person, or a group of people, is treated less favourably than another person or group due to a protected personal characteristic.

It is important to understand that a one-off incident can constitute discrimination.

Discrimination can occur in any of the relationships and interactions you have while employed at the Company for instance with a colleague, client or service provider.

Roles and Responsibilities

Employers/Managers

- Promote awareness of the issue amongst the work group;
 - Consult with staff to establish whether respect at work guidelines are adhered to in the workplace;
 - Provide training and instruction to employees about respect at work – sexual harassment, bullying, discrimination and victimisation issues;
 - Enact Grievance Policy procedures when a complaint is lodged;
 - Provide informal counselling reminding the employee accused of the conduct regarding the nature of this policy. No formal findings would be made about the matters that are the subject of the report or complaint.
- Ensure this policy is adhered to and consistently applied.

Employees

- Have a responsibility to abide by safety standards and co-operate with their employer's actions to ensure a safe and healthy workplace is maintained;
- Assist and comply with investigations by their employer regarding this conduct;
- Take reasonable care for the health and safety of others in the workplace.

How to Make a Complaint?

Seek a complaint channel that you both trust and feel comfortable with.

First, raise the issue directly with the person if comfortable approaching them; an approach used could be as follows;

"you said this to me (describe what happened or was said) . I felt that was not appropriate behaviour, was it your intention to make me feel uncomfortable, because that is what you did".

Inform the perpetrator that it is not acceptable behaviour and it must stop, or you will make a formal complaint. If they apologise, and you accept it, then the matter can be put behind you both without a formal complaint being lodged.

If you do approach the person directly, it is strongly advised that your manager or supervisor be told about the direct approach you have taken, and that the person and you have or have not resolved the issue directly. Management needs to be aware of your attempts to resolve the matter should the actions by the perpetrator reoccur.

Respect at Work reforms - Sexual Harassment, Bullying, Discrimination & Victimisation - Prevention & Management Guidelines

If there is genuine error of judgement on the part of the perpetrator this action of approaching the person directly should fix the problem, without the need for further investigation and or embarrassment for either party.

Once a complaint is lodged it cannot be withdrawn and action must be taken to find a suitable solution to issues raised, and to ensure there is no reoccurrence in the future in accordance with the Company's Grievance Policy.

If the conduct continues or you don't feel comfortable approaching the person directly, then you must advise your management or supervisor of your concerns.

When a complaint is made it will be treated as a serious matter, be investigated promptly and should be kept confidential where appropriate.

If a complaint cannot be resolved internally, or if you have concerns with raising the issue in the workplace, the following external complaint channels include:

- Australian Trainers' Association (03 9372 1688)
- Racing Stewards – Integrity Department (in your state/territory)
- Australian Human Rights Commission (1300 369 711)
- Fair Work Commission (1300 799 675)

Further information

Australian Human Rights Commission:

- Website: www.humanrights.gov.au
- Phone: 1300 656 419

Fair Work Ombudsman:

- Website: www.fairwork.gov.au
- Phone: 13 13 94

Support services

If you feel unsafe now, **phone 000**.

If there is no immediate danger but you need police assistance, **phone 131 444**.

You can contact the police about any assault that may involve criminal conduct

Contacting the police

Some forms of sexual harassment are criminal conduct.

If you have experienced sexual assault and feel you would like to make a complaint or report to the police, go immediately to the nearest police station.

Alternative go online at the following website;

(<https://humanrights.gov.au/our-work/sex-discrimination/policecontacts-sexual-assault>).

Sexual assault support services

If you have experienced sexual assault or sexual harassment and feel you would like to speak to someone for support or information, 1800RESPECT (Phone: 1800 737 732) can provide counselling 24-hours a day, 7 days a week.

Mental health support services

Lifeline

24-hour crisis support and suicide prevention. Phone: 13 11 14

Website: www.lifeline.org.au/ (<https://www.lifeline.org.au/>)

Beyondblue

Mental health support. Phone: 1300 224 636

Website: www.beyondblue.org.au/ (<https://www.beyondblue.org.au/>)

The information presented in this document is intended for **general use** and **guidance only**. It should not be viewed as a definitive guide to the law and should be read in conjunction with relevant *Commonwealth and State legislation* along with the *Fair Work Act 2009*. This document may also need to be adapted to suit specific circumstances relevant to individual states.

(source of information: Fair Work Commission & Fair Work Ombudsman)

Respect at Work reforms - Sexual Harassment, Bullying, Discrimination & Victimisation - Prevention & Management Guidelines

Schedule A

Private and confidential

[Insert employee's full name]

[insert employee's residential or email address]

Dear [insert name]

Notice of Concern

I am writing to you about concerns raised by an independent person/s with regard to your behavior towards another fellow worker.

The concerns raised deal with what is deemed unwelcomed conduct of a sexual nature in relation to another person. I draw your attention to the workplace sexual harassment policy, in particular to the following:

To be sexually harassed or to prove/identify sexual harassment has taken place, it has to be reasonable to expect that there is a possibility that the person being harassed would be offended, humiliated or intimidated by the behavior.

It is a concern that you may have subjected another worker to such behavior and through your alleged actions [list concerns raised, ensure that you **do not identify the person raising the concerns**] may have breached the sexual harassment policy. While you may not be aware of the impact your behavior created, it was noted by others and concerns have been raised about your actions.

This/these alleged actions must **cease immediately**; to continue any such action will impact your employment.

Sexual harassment in connection with an employee's employment can

be a valid reason for dismissal.

It is important that we consider others in a respectful workplace and make better alternative positive choices when dealing in person or online with fellow workers, than those which have resulted in this "**Notice of Concern**" being issued to you.

Option 1: I propose that a meeting be scheduled to discuss your obligations under our workplace policies, after which we will consider the matter closed.

Option 2: Please review the contents of this letter carefully. To confirm your understanding of the matters outlined above, and your obligations in accordance with our workplace policies, we request that you sign and return a copy of this letter. Your signature does not indicate admission of wrongdoing but rather acknowledges that you have received and understood the concerns raised.

[Note: the employee is not legally obligated to sign a copy of the letter. If they sign the letter, keep a copy for your records].

Yours sincerely

[insert name]

[insert position]