Office Procedural Circular No. 7.12
Preventing inappropriate interpersonal conduct

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Part 1—Introduction

1. Bullying, harassment, sex-based harassment, sexual harassment, discrimination and victimisation are inappropriate interpersonal conduct and are potential threats to both the well-being of affected workers, and the ability of OPC to achieve organisational goals.
2. The harm to individuals may manifest in a number of ways such as impaired concentration or ability to make decisions; loss of self-esteem and confidence, a sense of isolation or withdrawal from the workplace; distress, anxiety, panic attacks or sleep disturbances; physical illness; increased risk of injury, including psychological injury; loss of employment; or depression and risk of suicide.
3. Direct and indirect costs to OPC may include focus of workers being directed away from core work priorities and activities; breakdown of workgroup relationships leading to reduced efficiency; higher levels of absenteeism and worker turnover, resulting in loss of productivity; costs associated with counselling, mediation and support, compensation claims and litigation.
4. OPC is required under the *Work Health and Safety Act 2011* (WHS Act) to ensure the health and safety of its workers and other persons.
5. Discrimination, bullying, harassment, sex-based harassment, sexual harassment, and victimisation are unlawful under the following legislation:

*Public Service Act 1999*

*Sex Discrimination Act 1984*

*Racial Discrimination Act 1975*

*Disability Discrimination Act 1992*

*Age Discrimination Act 2004*

*Fair Work Act 2009*

Part 2—Policy

1. OPC will provide a safe, flexible and respectful environment where inappropriate interpersonal conduct such as discrimination, bullying, harassment, sex-based harassment, sexual harassment, and victimisation are not tolerated.
2. OPC will prevent inappropriate interpersonal conduct by nurturing a respectful organisational culture; by educating workers on the impacts of inappropriate interpersonal conduct and how to respond; and by responding to incidents of inappropriate interpersonal conduct.
3. OPC will promote appropriate, respectful workplace conduct, and nurture an organisational culture that celebrates diversity and inclusion. The APS Code of Conduct requires that workers must treat others with respect, courtesy and without harassment (subsection 13(3) of the *Public Service Act 1999*).
4. OPC will educate workers about the risks and impacts of inappropriate interpersonal conduct and encourage workers to take action to address it.
5. OPC will maintain clear, easy to follow processes to address inappropriate interpersonal conduct. OPC will treat seriously any reports of inappropriate interpersonal conduct and will respond to incidents promptly, fairly and impartially. A person making a complaint, or against whom a complaint is made, or who is a witness to inappropriate interpersonal conduct, will not be victimised.

Part 3—In practice

Scope

1. The policies and practices in this document apply:
	1. to all workers;
	2. where and when workers are acting in connection with APS employment. That is, all work-related activity done on-site, off-site or on-line; and work-related activity done during or after normal business hours. Work-related activity includes regular work as well as work-related social functions; courses and conferences, etc – whenever and wherever workers may be as a result of their employment at OPC;
	3. to how OPC workers interact with each other and how they provide services to clients and interact with suppliers and members of the public in connection with their OPC duties; and
	4. to all aspects of employment, including but not limited to recruitment and selection; conditions and benefits; training and promotion; task allocation; shifts; hours; leave arrangements; workload; equipment and transport.

Definitions

Worker

1. Worker is a term defined under the WHS Act as employees, contractors and others who are working in an OPC workplace. For more information, see OPC 7.7—Work health and safety framework.

Inappropriate interpersonal conduct

1. Inappropriate interpersonal conduct includes bullying, harassment, sex-based harassment, sexual harassment, discrimination and victimisation, as described below.

Bullying[[1]](#endnote-1)

1. A worker is bullied at work if a person or group of people repeatedly act unreasonably towards them or a group of workers and the behaviour creates a risk to health and safety.
2. Unreasonable behaviour is behaviour that a reasonable person, having regard to the circumstances, may see as unreasonable. This includes (but is not limited to) behaviour that is victimising, humiliating, intimidating or threatening.
3. Guidance regarding conduct that constitutes bullying may be found on the intranet.

Harassment

1. Harassment is offensive, belittling or threatening behaviour towards an individual or group of workers. The behaviour is unwelcome, unsolicited, usually unreciprocated, and often repeated[[2]](#endnote-2). OPC recognises that comments and behaviour that may not offend one person can offend another.
2. Guidance regarding conduct that constitutes harassment may be found on the intranet.

Sex-based harassment

1. Sex-based harassment is unwelcome conduct of a seriously demeaning nature engaged in by reason of the sex of the person harassed in circumstances in which a reasonable person would have anticipated that the person harassed would be offended, humiliated or intimidated by the conduct. A single incident is enough to constitute sex-based harassment – it doesn’t have to be repeated.
2. Guidance regarding conduct that constitutes sex-based harassment may be found on the intranet.

Sexual harassment

1. Sexual harassment is unwelcome sexual advances, requests for sexual favours or other unwelcome conduct of a sexual nature that could reasonably be expected to make a person feel offended, humiliated or intimidated[[3]](#endnote-3). A single incident is enough to constitute sexual harassment – it doesn’t have to be repeated.
2. A lack of objection to sexual harassment does not constitute consent. Consent is when one person agrees to or gives permission to another person to do something.
3. Guidance regarding conduct that constitutes sexual harassment may be found on the intranet.

Discrimination

1. Discrimination is the unfair or prejudicial treatment of people and groups based on personal characteristics such as race, colour, sex, religion, political opinion, national extraction or social origin[[4]](#endnote-4).
2. Discrimination can occur directly**,** when a person or group is treated less favourably than another person or group in a similar situation, or harassed, because of a personal characteristic, or the assumption of a personal characteristic currently or at some time in the future.
3. Discrimination can occur indirectly**,** when an unreasonable requirement, condition or practice is imposed that has, or is likely to have, the effect of disadvantaging people with a particular personal characteristic.
4. Guidance regarding conduct that constitutes discrimination may be found on the intranet.

Victimisation

1. Victimisation is subjecting or threatening to subject someone to a detriment because they have asserted their rights under equal opportunity law, made a complaint, helped someone else make a complaint, been part of an investigation (such as a witness) or refused to do something because it would be inappropriate interpersonal conduct.

What is not inappropriate interpersonal conduct

1. The following is not inappropriate interpersonal conduct:
	1. expressing differences of opinion in a constructive and courteous manner.
	2. carrying out reasonable management decisions or actions, undertaken in a reasonable way and with respect and courtesy, e.g. allocating work, or transferring a worker to alternate duties, directing and controlling how work is performed, monitoring workflows and working hours, where the requirements are reasonable.
	3. respectful feedback provided by managers and supervisors with the intention of assisting workers to improve performance or work-related behaviour, despite the fact that it may feel very uncomfortable. This is reasonable management action, provided that it is done in a constructive manner that is not humiliating, belittling, or threatening.
	4. behaviour that is invited or that is genuinely accepted by all people involved.
	5. making a complaint about another’s conduct, if the complaint is made in a proper and reasonable way.

Rights and responsibilities

Workers

1. All workers are entitled to:
	1. work free from inappropriate interpersonal conduct.
	2. recruitment and selection decisions based on merit and not affected by irrelevant personal characteristics.
	3. reasonable flexibility in working arrangements, especially where needed to accommodate their family responsibilities, disability, religious beliefs or culture.
	4. raise issues or to make an enquiry or complaint in a reasonable and respectful manner without being victimised.
2. All workers must:
	1. at all times behave in a way that upholds the APS Values and Employment Principles, and the integrity and good reputation of OPC and the APS.
	2. when acting in connection with APS employment, treat everyone with respect and courtesy, and without harassment;
	3. not participate in, nor cause, instruct, induce, aid, permit or condone inappropriate interpersonal conduct;
	4. immediately cease any inappropriate interpersonal conduct towards other workers, when asked to do so;
	5. offer informal support to people who experience inappropriate interpersonal conduct;
	6. report inappropriate interpersonal conduct by completing a WHS hazard or incident report;
	7. respect the confidentiality of complaint resolution procedures. Workers must not inappropriately disclose personal information obtained in a professional role (for example, as a supervisor) or as a result of being part of an informal or formal investigation.

Supervisors

1. In addition to their responsibilities as workers, supervisors must:
	1. model appropriate standards of behaviour;
	2. identify and manage behaviour that may constitute, or has the potential to develop into inappropriate interpersonal conduct;
	3. intervene quickly and appropriately when they become aware of inappropriate interpersonal conduct;
	4. take prompt and timely action to deal with suspected instances of inappropriate interpersonal conduct;
	5. take prompt and timely action to implement any actions or recommendations arising from the outcomes of investigations or disciplinary action;
	6. act fairly to resolve issues and enforce workplace behavioural standards, ensuring that relevant parties are heard;
	7. help workers resolve complaints informally wherever possible, and refer formal complaints for investigation;
	8. ensure workers who raise an issue or make a complaint are protected from victimisation.
2. Support for supervisors is available from People Services.

Promoting appropriate, respectful workplace conduct

1. OPC will require all workers to complete online modules on the APS Code of Conduct and Values on commencement, and refresher modules every two years.
2. OPC will maintain a psychological safety strategy which promotes appropriate, respectful conduct.

Merit at OPC

1. Hiring and promotion decisions at OPC must be based on merit – the skills and abilities of the candidate as measured against the inherent requirements of the position – regardless of personal characteristics. The APS Employment Principles in section 10A of the *Public Service Act 1999* provide that the APS makes decisions relating to engagement and promotion based on merit.
2. OPC will embed mitigations against the risk of discrimination into recruitment and selection processes, and provide support and education for workers involved in recruitment and selection.

Educating workers on impact and how to respond

1. OPC will require all workers to complete online modules on the prevention of bullying and harassment on commencement and refresher modules every two years.
2. OPC will undertake an ongoing communication campaign to raise awareness of the safety and well-being risks of inappropriate interpersonal conduct, and appropriate responses. Communication channels will include ‘all staff’ and group level meetings.
3. The OPC Diversity Champion will communicate with workers about the negative impact of inappropriate interpersonal conduct on inclusion and thus organisational resilience and innovation.

Bystanders

1. A bystander is someone who sees or knows about inappropriate interpersonal conduct that is happening to someone else. Bystanders play a very important role in responding to and preventing inappropriate interpersonal conduct.
2. OPC will encourage all workers to be supportive bystanders by providing training and promoting the role of bystanders and how they can best support a worker who is affected by inappropriate interpersonal conduct.
3. An important role for bystanders is to speak to a person demonstrating inappropriate interpersonal conduct and letting them know the impact of their conduct, and that it is not acceptable.
4. OPC will periodically review the effectiveness of these measures.

Response to inappropriate interpersonal conduct

1. All incidents of inappropriate interpersonal conduct, regardless of the seriousness or who may be involved, should be addressed quickly and appropriately.

Support the affected workers

1. OPC will encourage all workers to support colleagues affected by inappropriate interpersonal conduct.
2. Bystanders should support the affected worker by talking to them about any incident that occurs and letting them know they have support; assisting them to ask for help or providing them with information about how they can get help.
3. Supervisors should provide support by having a conversation with the affected worker and discussing options available to resolve the matter.

Explore resolution options

1. The affected worker may choose to speak to a person demonstrating inappropriate interpersonal conduct and let them know the impact of their conduct, and that it is not acceptable. The worker may wish to be accompanied by a support person or employee representative. The affected worker should consider completing WHS hazard or incident report.
2. Alternatively, the affected worker may choose to discuss the issue and possible resolutions with their supervisor, and where relevant, with senior management of the worker’s work group. The affected worker and supervisor should agree on which of them will complete the WHS hazard or incident report.
3. Incidents may be resolved informally or formally, depending on the circumstances. Both processes are outlined in OPC No. 5.10—Resolution of disputes and grievances.
4. Nothing in this document precludes a worker from making a complaint to the Australian Human Rights Commission ([Complaints information | Australian Human Rights Commission](http://www.humanrights.gov.au/complaints-information)) or lodging a claim with the Fair Work Commission ([Anti-bullying | Fair Work Commission](https://www.fwc.gov.au/disputes-at-work/anti-bullying), [Stopping sexual harassment at work | Fair Work Commission](https://www.fwc.gov.au/about-us/news-and-events/stopping-sexual-harassment-at-work)).

Maintaining privacy and record keeping

1. OPC undertakes to handle all issues confidentially, which means issues will be discussed only with those legitimately and directly involved.
2. Personal information obtained when resolving an issue will be classified Official: Sensitive Personal-Privacy and stored in a confidential manner.
3. Affected workers, bystanders and supervisors are encouraged to keep a contemporaneous confidential record of times, dates, places and witnesses to the inappropriate interpersonal conduct; only recording relevant and factual data that could not be considered malicious. This will assist to expedite any investigation.

Procedural fairness and potential outcomes

1. When responding to an incident, OPC will provide support to the affected worker and the worker whose conduct has caused concern. The existence of an allegation will not be presumed to mean the allegation is proven.
2. Workers (including managers) found to have engaged in inappropriate interpersonal conduct will be supported to adjust their conduct so that it is not repeated. The nature of that support will be commensurate with the seriousness of the finding.

Where to get support

1. [OPC’s Grievance Officer](http://opc-intranet.opc.local/hr/SitePages/Grievance-Officer.aspx?web=1): is a staff member elected to listen and provide support to workers, including informing workers about their options, the process for resolution of complaints and discussing possible outcomes;
2. [Employee Assistance Program](http://opc-intranet.opc.local/hr/SitePages/Employee-Assistance-Program-%28EAP%29.aspx?web=1): is free, confidential, professional counselling for employees and their family members.
3. [People Services team:](http://opc-intranet.opc.local/hr/SitePages/Home.aspx?web=1) All OPC workers may approach the team informally to seek support, discuss issues and options for resolution. People Services team will not take any action without the consent of the worker, unless they are obliged by their duty of care to provide a safe workplace.

Further information

1. Workers, especially managers and supervisors, are encouraged to read this document in conjunction with the following:

[Office of Procedural Circular No. 7.7 Work health and safety framework](%28s07pc451.v33.docx%20Office%20Procedural%20Circular%20No.%207.7%20Work%20health%20and%20safety%20framework%29)

[Office Procedural Circular No. 5.10 Resolution of disputes and grievances](%28s06pq466.v24.docx%20Office%20Procedural%20Circular%20No.%205.10%20Resolution%20of%20disputes%20and%20grievances%29)

[Office Procedural Circular No. 6.6 Procedures for determining breaches of the Code of Conduct](%28s05pe372.v35.docx%20Office%20Procedural%20Circular%20No.%206.6%20Procedures%20for%20determining%20breaches%20of%20the%20Code%20of%20Conduct%29)

[Office Procedural Circular No. 2.10 Procedures for facilitating and dealing with public interest disclosures](%28S14AY379.V04.DOCX%20Office%20Procedural%20Circular%20No.%202.10%20Procedures%20for%20facilitating%20and%20dealing%20with%20public%20interest%20disclosures%29)

[Office Procedural Circular No. 5.2 Selection and recruitment policies, practices and procedures](%28S01DC236.V39.DOCX%20Office%20Procedural%20Circular%20No.%205.2%20Selection%20and%20recruitment%20policies%2C%20practices%20and%20procedures%29)

[Office Procedural Circular No. 7.2 Working flexibly in OPC](%28S21UV221.V05.docx%20OPC%20Working%20flexibly%29)

[Office Procedural Circular No. 7.11 Workplace breastfeeding policy](%28s09ay214.v15.docx%20Office%20Procedural%20Circular%20No.%207.11%20Workplace%20breastfeeding%20policy%29)

[OPC Enterprise Agreement](%28S15GD118.v16.docx%20Non-SES%20EA%202016-2019%29)

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Note: Before July 2017, this OPC was Office Procedural Circular No. 50

1. Fair Work Commission, https://www.fwc.gov.au/anti-bullying-benchbook/when-worker-bullied-at-work viewed 11 November 2021 [↑](#endnote-ref-1)
2. [APSC, Respect: Promoting a culture free from harassment and bullying in the APS, p 6, 2018](https://legacy.apsc.gov.au/respect-promoting-culture-free-harassment-and-bullying-aps) [↑](#endnote-ref-2)
3. SafeWork Australia, Guide for Preventing and Responding to Workplace Bullying page 7, 2016 [↑](#endnote-ref-3)
4. subsection 3(1) of the *Australian Human Rights Commission Act 1986* [↑](#endnote-ref-4)