



Workplace Harassment and Bullying Guidelines

A handwritten signature in black ink, appearing to read 'Daryl Karp', is positioned above the printed name.

Daryl Karp
Director

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Version control

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Team responsible for overview and updates of the policy:

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1. General information

All employees of MoAD of Australian Democracy (MoAD) have a shared responsibility to create a respectful and courteous workplace. The Museum strives to maintain a productive workforce that manages its performance and achieves results by knowing:

- the workplace is safe and all employees are treated fairly
- employees skills and contributions are recognised and valued
- all employees can work harmoniously with others.

This guideline is designed to assist employees to identify bullying and harassment in the workplace, and to ensure that our workplace is one that promotes a positive work culture where everyone is treated with courtesy and respect.

This guideline applies to all concerns and complaints raised against an employee by any individual involved in Museum related activities.

Policy

This guideline supports the Director's policy statement at Attachment A and has been developed with the objective of preventing workplace bullying and harassment from occurring, and for providing a mechanism for resolving workplace bullying and harassment concerns and complaints when they occur. The emphasis is on resolving concerns and complaints through a process which encourages informal resolution where possible, and that is conducted in an expeditious and confidential manner, with access to formal mechanisms for resolving complaints, if required.

All managers have an obligation and responsibility to promote an environment free of workplace bullying and harassment. All concerns and complaints will be managed in an encouraging environment without any victimisation of those involved in the complaint or following the complaint.

Where an individual has raised workplace bullying and harassment concerns, MoAD will manage these concerns through the procedures outlined in this guideline and policy.

This guideline and policy will be made available to all employees including contractors. New employees will be advised of this guideline and policy at their induction. Managers and supervisors will remind employees of this guideline and policy from time to time.

2. Responsibilities

MoAD

- provide and maintain a work environment that is without risks to health and safety
- provide accessible information in relevant policies, procedures and guidelines regarding access to internal and external avenues of support for individuals in relation to inappropriate workplace behaviour or bullying and harassment concerns
- maintain a pool of Diversity and Harassment Contact Officers (DHCOs) and ensure they are adequately trained
- provide information and training opportunities for employees and managers to raise awareness of workplace bullying and harassment and provide strategies to prevent this occurring

- ensure managers and employees have access to information and training on their rights and responsibilities, including induction and refresher training.

Employees

- Take all reasonable steps to ensure MoAD has and uses appropriate resources and processes to eliminate or minimise risks associated with inappropriate workplace behaviour, bullying and harassment.

Managers / Supervisors

- take all reasonable steps to ensure that no form of workplace bullying or harassment takes place in MoAD's workplace environment
- provide clear guidance about what is acceptable and what is not acceptable behaviour in the working environment
- ensure that complaints of workplace bullying and harassment are dealt with in a supportive environment without victimisation or intimidation of any individual connected with a complaint during or subsequent to resolution
- take all reasonable steps to prevent and resolve complaints raised in their area of responsibility
- recognise the early signs of disharmony and take early sensitive and positive steps to prevent and resolve complaints
- consult with individuals in relation to the processes that will be taken to resolve concerns raised
- be aware of individual responsibilities in the prevention and resolution of workplace bullying and harassment including but not limited to:
 - inform individuals of the actions they can take if they feel they are being bullied or harassed
 - inform individuals who are the subject of workplace bullying and harassment of their rights and provide them with the relevant compliant resolution process
 - inform individuals that workplace bullying and harassment may, where substantiated, result in the commencement of disciplinary procedures
 - inform individuals of DHCOs and the availability and support offered by People and Strategy
 - ensure that individuals who make a complaint are not victimised for doing so
 - ensure that the policies and procedures in relation to the making of a complaint or resolution are followed
 - ensure that the matter is handled confidentially and privately
 - ensure that individuals are sufficiently informed prior to an investigation, whilst protecting confidentiality
 - ensure that the environment is supportive of individuals on the completion of any investigation
 - ensure that an individual is not made to feel they should take certain action or no action because of their responsibility to other individuals.

Employees

- take reasonable care for their own health and safety

- take reasonable care that their acts or omissions do not adversely affect the health and safety of others
- be aware of and adhere to MoAD's policy and guidelines on inappropriate workplace behaviour and all forms of workplace bullying and harassment
- take responsibility and ownership for making decisions on how concerns can be resolved
- access information, support and assistance from managers, supervisors, DHCOs, Health and Safety Representatives and People and Strategy members to determine the resolution option that the employee would like to progress
- comply, so far as reasonably practicable, with any reasonable instruction given by The Museum in relation to workplace health and safety.

This guideline and policy will be made available to all workers including contractors. New workers will be advised of this guideline and policy at their induction. Managers and supervisors will remind workers of this guideline and policy from time to time.

3. What is not appropriate workplace behaviour

Unreasonable behaviour is behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening. A single incident of unreasonable behaviour can also present a risk to health and safety and should not be tolerated.

Workplace bullying is defined as 'repeated and unreasonable behaviour directed towards an employee or a group of employees that creates a risk to health and safety'. Examples of behaviour, whether intentional or unintentional, that may be considered to be workplace bullying if they are repeated, unreasonable and create a risk to health and safety include but are not limited to:

- abusive, insulting or offensive language or comments
- unjustified criticism or complaints
- deliberately excluding someone from workplace activities
- withholding information that is vital for effective work performance
- setting unreasonable timelines or constantly changing deadlines
- setting tasks that are unreasonably below or beyond a person's skill level
- denying access to information, supervision, consultation or resources to the detriment of the employee
- spreading misinformation or malicious rumours
- changing work arrangements such as rosters and leave to deliberately inconvenience a particular employee or employees.

A single incident of unreasonable behaviour is not considered to be workplace bullying, however it may have the potential to escalate and should not be ignored.

Violent behaviour

If any incidence of inappropriate workplace behaviour involves violence, for example physical assault or the threat of physical assault, it should be reported to the police.

4. What is not considered to be workplace bullying?

Reasonable management action taken in a reasonable way

It is reasonable for managers and supervisors to allocate work and to give fair and reasonable feedback on an employee's performance. These actions are not considered to be workplace bullying if they are carried out lawfully and in a reasonable manner, taking the particular circumstances into account.

Examples of reasonable management action include but are not limited to:

- setting reasonable performance goals, standards and deadlines
- rostering and allocating working hours where the requirements are reasonable
- transferring an employee for operational reasons
- deciding not to select an employee for promotion where a reasonable process is followed
- informing an employee about unsatisfactory work performance in an honest, fair and constructive way
- informing an employee about inappropriate behaviour in an objective and confidential way
- implementing organisational changes or restructuring
- taking disciplinary action, including suspension or terminating employment.

Notwithstanding the above points, managers should note that providing feedback or counselling should always be carried out in a constructive way that is not humiliating or threatening.

5. Workplace conflict

Differences of opinion and disagreements are generally not considered to be workplace bullying or harassment. People can have differences and disagreements in the workplace without engaging in repeated, unreasonable behaviour that creates a risk to health and safety. However, in some cases, conflict that is not managed may escalate to the point where it meets the definition of workplace bullying and should not be ignored.

6. Discrimination and sexual harassment

Behaviour that involves discrimination and sexual harassment in employment is unlawful under anti-discrimination, equal employment opportunity, workplace relations and human rights laws.

Unreasonable behaviour may involve discrimination or sexual harassment, which in isolation is not considered to be bullying or harassment.

Discrimination occurs when someone is treated less favourably than others because they have a particular characteristic or belong to a particular group of people. For example, it would be discriminatory not to hire or promote a woman because she is pregnant or may become pregnant.

Sexual harassment is associated with unwelcome sexual advances, requests for sexual favours or other unwelcome conduct of a sexual nature.

7. How can workplace bullying occur?

Workplace bullying can be carried out in a variety of ways including through email, text messaging, internet chat rooms or other social media channels. In some cases workplace bullying and harassment may occur outside normal working hours.

Workplace bullying and harassment can be directed at a single employee or group of employees and be carried out by one or more employees. It can also be directed at or perpetrated by other people such as visitors, contractors, volunteers and members of the public.

8. What to do if an employee feels they are being bullied

Wherever possible, employees should first seek to resolve the issue informally with the support or advice from a supervisor, manager or a DHCO.

The advantages of resolving the issue informally:

- It allows the issue to be addressed and minimises the risk of any damage to the reputation of the people involved. This is particularly important where the behaviour was unintentional or misguided.
- It allows for positive action to be taken to correct the behaviour.
- It enables management to develop preventative measures in the workplace without attributing blame to one person or another. This can be important when the behaviour is the result of group behaviour or when what is regarded as 'normal' behaviour in the work area but is seen as inappropriate by someone new to the area.
- It can focus effort on clarifying what is regarded as acceptable behaviour and what is not in a work environment.

The outcome of resolving issues informally may be an apology, an end of the offensive behaviour and an undertaking that it will not happen again. If an employee has experienced inappropriate behaviour there are several options available. The most appropriate option will depend on the circumstances, including the severity and type of behaviour, how long the behaviour has been going on and if the employee has already tried to resolve the situation.

In most cases, informal processes should be used before formal action is considered.

If inappropriate behaviour issues cannot be resolved informally, a formal process in accordance with the *Guidelines for Handling Misconduct* may need to be initiated.

Misconduct refers to any action or behaviour by an employee that breaches the APS Values and Code of Conduct (the Code).

In broad terms, an APS employee whose conduct does not comply with an element of the Code can be found to have breached the Code. For example, the *Public Service Act 1999* requires that an employee, when acting in the course of APS employment must treat everyone with respect and courtesy and without harassment.

Not all suspected misconduct needs to be dealt with by implementing misconduct procedures. If the misconduct is minor or if it involves personality clashes, other approaches such as mediation or counselling may be the most effective way to manage the behaviour. If

an employee wishes to pursue formal action to address inappropriate behaviour or bullying at work, the matter should be referred to People and Strategy.

Employees (and contractors) who reasonably believe that they have been bullied at work may apply to the Fair Work Commission for an order to stop the workplace bullying. If this course of action is to be pursued, the affected person should contact the Fair Work Commission to find out if they are eligible to apply for an order.

If an employee witnesses unreasonable behaviour, the matter must be brought to the attention of their manager or People and Strategy as a matter of urgency.

9. Internal processes in place to manage complaints of workplace bullying and harassment

In resolving complaints of workplace bullying and harassment, MoAD shall apply a three stage process. The emphasis of this process is to seek resolution as soon as possible with resolution occurring at the lowest possible level. The three stages are as follows:

- Stage 1: Initial Action
- Stage 2: Further Advice and Assistance
- Stage 3: Investigation.

Stage 1 and 2 are informal processes. They allow individuals to make informed decisions and assist them in resolving the issues. They do not involve a formal investigation or the determination of evidence. Individuals are encouraged to resolve complaints between themselves, where possible.

An informal process to resolve the issue is the preferred method if:

- It is a single incident
- The behaviour is unintentional
- If the matter can be resolved within the work area or
- If the person who raised the issue agrees to an informal process.

Stage 3 is a formal procedure and will be used when the matter cannot be resolved informally. It involves the making of a written formal complaint after which an investigation of allegation of workplace bullying and harassment occurs and an outcome is then imposed on the parties.

A formal process may be required where:

- an informal process has failed and/or is unlikely to resolve the issue
- the behaviour is serious or longstanding, or
- there is a significant disagreement about what has occurred and how it can be resolved.

All complaints of misconduct will be progressed in accordance with the *Handling Misconduct Guidelines* stages and processes. However an individual can lodge an informal complaint (verbally or in writing) to start the process, and at any time, an informal complaint may progress straight to People and Strategy if the allegations pose an immediate risks to the health, safety or wellbeing of any employee or involve alleged criminal activity.

For information on the process relating to formal misconduct in the workplace, please see the *Handling Misconduct Guidelines*.

Complaints made against an employee will be assessed on a case-by-case basis and may be escalated at Stage 2 or Stage 3 depending on the nature and seriousness of the complaint.

DHCOs are trained to provide information and support (not counselling) for these procedures. DHCOs will assist an individual to decide whether the concerns constitute workplace bullying and harassment, advise them of their rights and explore possible options with them.

Confidentiality

Confidentiality should be considered in what information, how and to whom it is communicated. To limit breaches of confidentiality, measures include:

- discussing sensitive or private information with third parties only if they need to know and with the permission of those involved
- secure storage, coding and access to files and documentation on the workplace bullying report
- conducting discussions in a private location
- choosing appropriate times or locations for printing, copying or disposing of materials.

It is important the parties involved in the complaint are instructed:

- to maintain confidentiality of the materials presented, discussed or submitted
- how to maintain confidentiality, for example who they can and cannot speak to about the matter.

Transparency for the parties involved

Transparency of the report handling process promotes accountability. It allows the parties involved to be fully informed about how the report is going to be handled. The parties should be made aware of:

- the steps and estimated timeframes for resolving or investigating the workplace bullying report
- the name and details of a contact person
- progress reports and an explanation for delays
- the outcome of actions taken and the reasons for decisions made
- the right of review if the parties are not satisfied with the outcome.

Actions after reports of workplace bullying are resolved

After a report of workplace bullying is resolved there should be a follow-up review to check the health and safety of the parties involved, to offer support and to find out whether actions taken to stop the workplace bullying have been effective. These may include:

- offering professional counselling
- providing mentoring and support from a senior manager
- providing training and relevant professional or skills development
- redressing inequality resulting from the bullying behaviour

- reinstating lost entitlements resulting from the bullying behaviour, e.g. re-crediting leave
- monitoring behaviours of the affected work group
- organising work in another area of the organisation.

Information and training

This guideline and policy will be made available to all employees including contractors. New employees will be advised of this guideline and policy at their induction. Managers and supervisors will remind employees of this guideline and policy from time to time.

Training in these guidelines, policy and management will be provided to MoAD's DHCOs.

Employees can access a range of people and other resources for information and advice including:

- a DHCO
- the employee's manager or any other manager
- People and Strategy
- the Employee Assistance Program
- the Australian Human Rights Commission.

Monitoring and review

Once control measures have been implemented they should be monitored and reviewed to ensure they are effective in managing the risk of workplace bullying. If the control measures do not work the situation should be analysed further to determine how to fix the problem. A review must be carried out in consultation with employees and their Health and Safety Representatives. A review can be conducted at any time but it is recommended it is conducted:

- when workplace bullying has been substantiated
- at the request of a Health and Safety Representative or Health and Safety Committee
- when new or additional information or research about workplace bullying becomes available
- according to a scheduled review date.

Information for a review can be obtained from the same sources used when identifying the potential for workplace bullying, for example:

- confidential surveys
- exit interviews
- records of sick leave.

Gathering evidence to answer the following questions may help in a review:

- Are supervisors and managers trained to recognise and deal with workplace bullying? Has the training been effective?
- Has awareness been raised amongst staff about workplace bullying?
- Do employees speak up about unreasonable behaviour?
- Has there been a change in workplace morale and behaviour over time?
- Are workplace bullying policies being consistently enforced?
- Are reports of workplace bullying being responded to quickly and effectively?

Results of reviews and suggested improvements should be reported to managers, board members and where applicable Health and Safety Representatives and Health and Safety Committee.

Reviewing the systems of work

After addressing a specific workplace bullying issue, MoAD will also examine the work situation to identify and address any underlying factors that may increase the risk of workplace bullying. For example, review the systems of work including workloads and staffing levels and the effectiveness of procedures and training.

Keeping records on reports of workplace bullying and actions taken as recommended above can be useful in analysing trends to help prevent bullying from recurring in the future. Records should remain confidential.

Supporting documentation

[*Age Discrimination Act 2004*](#)

[*APS Code of Conduct*](#)

[*Disability Discrimination Act 1992*](#)

[*Fair Work Act 2009*](#)

[*Human Rights and Equal Opportunity Commission Act 1986*](#)

[*Public Service Act 1999*](#)

[*Racial Discrimination Act 1975*](#)

[*Safety Rehabilitation and Compensation Act 1988*](#)

[*Sex Discrimination Act 1984*](#)

[*Work Health and Safety Act 2011*](#)

[*WHS Regulation 2011*](#)

Director's Harassment and Bullying Policy Statement

The Museum of Australian Democracy (MoAD) is committed to ensuring that employees are treated with integrity and respect, and providing a workplace environment free from discrimination, harassment and bullying. In accordance with the Public Service Values and Code of Conduct, everyone in MoAD is required to be treated with respect, fairness and without harassment

The Museum will treat reports of workplace bullying or harassment seriously. We will respond promptly, impartially and confidentially.

This policy will be made available to all employees including contractors. New employees will be advised of this policy at their induction. Managers and supervisors will remind employees of this policy from time to time

Expected workplace behaviours

Under the work health and safety legislation, employees and other people at our workplace must take reasonable care that they do not adversely affect the health and safety of others.

The Museum expects people to:

- behave in a responsible and professional manner
- treat others in the workplace with courtesy and respect
- listen and respond appropriately to the views and concerns of others
- be fair and honest in their dealings with others.

This policy applies to behaviours that occur:

- in connection with work, even if it occurs outside normal working hours
- during work activities for example when dealing with clients
- at work related events, for example at conferences and work related social functions
- on social media where employees interact with colleagues or clients and their actions may affect them either directly or indirectly.

What is workplace bullying?

Workplace bullying is defined as 'repeated and unreasonable behaviour directed towards an employee or a group of employees that creates a risk to health and safety'.

Repeated behaviour refers to the persistent nature of the behaviour and can refer to a range of behaviours over time.

Unreasonable behaviour means behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.

Single incidents of unreasonable behaviour can also present a risk to health and safety and will not be tolerated.

What is not workplace bullying?

Reasonable management action taken by managers or supervisors to direct and control the way work is carried out is not considered to be workplace bullying if the action is taken in a reasonable and lawful way.

What can be done?

Wherever possible, employees should first seek to resolve the issue in the local work area seeking support or advice from a supervisor, manager or a DHCO. The outcome of resolving issues in the local work area may be an apology, an end of the offensive behaviour and an undertaking that it will not happen again. In most cases, formal processes should be used before formal action is considered.

If inappropriate behaviour issues cannot be resolved informally, a formal process in accordance with the *Guidelines for Handling Misconduct* may need to be initiated. Misconduct refers to any action or behaviour by an employee, which breaches the APS Values and Code of Conduct (the Code).

If an employee wishes to pursue formal action to address inappropriate behaviour or bullying at work the matter should be referred to the Safety and Wellbeing Team.

Further guidance

The Museum has developed a *Workplace Harassment and Bullying Guidelines*, of which this policy statement forms a part, to assist employees to identify bullying and harassment in the workplace and to ensure that our workplace is one that promotes a positive work culture where everyone is treated with courtesy and respect.

This Policy will be reviewed periodically to ensure it remains relevant and suitable.

Daryl Karp
Director