

# **BULLYING AND HARASSMENT POLICY**

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2022

## **BULLYING, HARASSMENT AND DISCRIMINATION IN THE WORKPLACE**

Bullying, harassment and discrimination in any form is unacceptable behaviour that will not be tolerated under any circumstances. All workers have the right to work in an environment that is free of bullying, harassment and discrimination.

Any complaints of bullying, harassment or discrimination will be treated seriously, sympathetically and confidentially. Where bullying, harassment or discrimination is found to have occurred, we will take action that is deemed appropriate to the circumstances and will act to ensure that the behaviour is stopped immediately.

All workers are expected to comply with the standards set out in the:

- *Lawyers and Conveyancers Act 2006* including Conduct and Client Care Rules;
- *Human Rights Act 1993*; and
- *Health and Safety at Work Act 2015*.

The firm is committed to preventing and protecting all persons engaged or employed by the firm from the effects of unacceptable conduct, including conduct that amounts to one or more of the following:

- bullying
- discrimination
- harassment
- racial harassment
- sexual harassment
- violence

### **1. DEFINITIONS**

**bullying** means repeated and unreasonable behaviour directed towards a person or people that is likely to lead to physical or psychological harm.

**discrimination** means discrimination that is unlawful under the *Human Rights Act 1993* or any other enactment.

**firm** means North End Law Limited.

**harassment** means:

- intimidating, threatening or degrading behaviour directed towards a person or group that is likely to have a harmful effect on the recipient; and
- includes repeated behaviour but may be a serious single incident

**PCBU** means a Person Conducting a Business or Undertaking, and on behalf of the firm, this person is Shelly Melissa Carden from 1 April 2022.

**racial harassment** means behaviour that:

- expresses hostility against, or contempt or ridicule towards, another person on the ground of race, ethnicity, or national origin; and
- is likely to be unwelcome or offensive to that person (whether or not it was conveyed directly to that person).

**RCCC** means the *Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008*.

**sexual harassment** means:

- subjecting another person to unreasonable behaviour of a sexual nature that is likely to be unwelcome or offensive to that person (whether or not it was conveyed directly to that person); or
- a request made by a person of any other person for sexual intercourse, sexual contact, or any other form of sexual activity, which contains an implied or overt promise of preferential treatment or an implied or overt threat of detrimental treatment.

**victimisation** means behaviour that constitutes retaliation against a person who makes a confidential report or complaint to the Law Society or to this firm in good faith.

**violence** includes the following:

- physical violence
- psychological violence
- sexual abuse
- sexual assault

**worker** means any person who works in this firm (at all levels), including contractors.

## 2. WHAT IS HARASSMENT?

Harassment includes a variety of different things and comes in a variety of forms. It can include (but need not be limited to) a person being troubled, intimidated, tormented or confused by continual, persistent, or serious one-off attacks, or the person may feel aggravated, annoyed, badgered, bewildered, bothered, hassled, irritated, or persecuted because of their gender, marital status, religion, colour, race, sexual orientation, physical differences, disability, age, political opinion, or family status.

This may be by verbal or written harassment through jokes, teasing, offensive language, gossip and slander; visual displays of posters and graffiti; offensive hand or body gestures; intimidation or bullying; persistent, unwelcome social invitations or telephone calls or coercion to participate in religious or political groups.

What is acceptable to some people may be unwelcome and offensive to others. Social and cultural contexts are important to consider, as behaviour, words and gestures have different meanings in different cultures and environments.

Some specific examples of harassment are detailed below.

### 1.1 Sexual Harassment

The *Human Rights Act 1993* defines sexual harassment as any unwelcome or offensive sexual behaviour that is repeated or is of such a significant nature to have a harmful effect, or which contains an implied or overt promise of preferential treatment or an implied or overt threat of detrimental treatment.

Sexual harassment will not be tolerated within our firm.

Sexual harassment can happen to, and be carried out by, someone of any sex. It can be subtle or more obvious.

Whether a behaviour is sexual harassment is viewed objectively, considering whether the conduct was unwelcomed or offensive, from the perspective of the complainant.

Examples of sexual harassment:

- Personal, sexually offensive comments.
- Sexual or smutty jokes.
- Unwanted comments or teasing about a person's sexual activities or private life.
- Offensive hand or body gestures.
- Physical contact such as patting, pinching or touching.
- Provocative posters with a sexual connotation.
- Persistent and unwelcome social invitations (or telephone calls or emails) from workmates at work or at home.
- Hints or promises of preferential treatment in exchange for sex.
- Threats of differential treatment if sexual activity is not offered.
- Sexual assault and rape.

## 1.2 **Racial Harassment**

Racial harassment is the use of language (written or spoken) or visual material, or physical behaviour that directly or indirectly:

- expresses hostility against, or brings the employee into contempt or ridicule, because of their race, colour, or ethnic or national origins of the employee, and
- this is hurtful or offensive to the employee (even if they don't let the employer or the employer's representative know this) and
- it is so significant or repeated that it has a negative effect on their employment this has a detrimental effect on the employee's employment, job performance or job satisfaction.

Examples of racial harassment:

- Making offensive remarks or jokes about a person's race.
- Copying or making fun of the way a person speaks.
- Calling people by racist names.
- Deliberately mispronouncing or mocking people's names.

## 1.3 **Other forms of Harassment**

General harassment could include any unwanted and unjustified behaviour which another person finds offensive or humiliating and because it is serious or repeated it has a negative effect on the person's employment, job performance or job satisfaction.

Other forms of harassment that may be bullying if repeated include:

- Comments or behaviour that express hostility, contempt or ridicule, repeated put-downs for people of a particular age, body shape, gender identity, etc.
- A general work atmosphere of repeated jokes, teasing, or 'fun' at someone else's expense because of a particular characteristic they have.

## **2. POLICY AND PROCEDURES**

### **2.1 Who's covered by this policy?**

This policy applies to everyone who works in this firm (at all levels), including contractors, as well as all visitors, including clients.

Client behaviour that amounts to either bullying, discrimination, harassment, racial or sexual harassment, threatening behaviour or violence is good cause to terminate the retainer under rule 4.2.1(f) of the *RCCC*.

The client behaviour doesn't have to be directed at the lawyer seeking to terminate the retainer. Client behaviour directed to any person associated with the law practice, such as a barrister instructed, or support staff employed by the law practice, can also amount to good cause to terminate the retainer.

Rule 4.2.1(f) of the *RCCC* is consistent with existing employer obligations under the *Health and Safety at Work Act 2015*, the *Employment Relations Act 2000*, and the *Human Rights Act 1993*.

Law practices must ensure they are acting to protect persons employed or engaged by the law practice from harm. This includes terminating a retainer, if necessary, when a client is engaging in prohibited behaviour towards a person employed or engaged by the law practice.

### **2.2 When does the policy apply?**

At our workplace, work events (such as off-site training) and outside of our workplace (when it's related to our work such as professional development activities).

At social and off-site functions, the firm will allocate a trusted person to oversee compliance with this policy. That person will remain until the end of such function.

### **2.3 Roles and responsibilities**

Everyone has a role in preventing harassment.

(a) The PCBU will:

- eliminate the risks from harassment so far as is reasonably practicable. If the risks can't be eliminated, they will be minimised so far as is reasonably practicable;
- identify factors that contribute to harassment, and put effective control measures in place;
- put in place a policy that limits the amount of alcohol permitted at work functions;
- establish a work culture that is fair and free of harassment;
- encourage positive leadership styles and invest in our General Manager to achieve this;
- focus on behaviour rather than people, and aim to promote harmonious relationships across the firm;
- openly discuss harassment in both formal and informal settings, and provide information and training about it including consequences of such behaviour (e.g. possible disciplinary actions);

- make sure workers know that they have the right to raise a personal grievance under the *Employment Relations Act 2000* or submit a complaint under the *Human Rights Act 1993* to the Human Rights Commission;
- make sure independent contractors working under a contract for service know that they have the right to submit a complaint under the *Human Rights Act 1993* to the Human Rights Commission;
- make sure workers have a range of ways to report harassment informally, formally or anonymously;
- make sure processes and systems for reporting and responding to harassment are fit-for- purpose and regularly reviewed;
- make sure workers know how to report harassment, what support, protection and advice is available, and their rights to representation;
- provide workers who believe they've been harassed with a range of options to address the issue;
- provide a supportive environment to those who believe they have been harassed and the alleged harasser;
- treat all parties fairly/impartially while allegations are dealt with;
- seek advice from both parties as to how they wish to deal with the situation;
- promote informal solutions before formal actions where appropriate;
- aim to repair the working relationship and promote positive work; and
- make sure this policy is visible to all workers, visitors and clients.

(b) Management will:

- make sure workers have clarity on what their roles entail;
- intervene early to call out and deal with any unreasonable behaviour before it escalates;
- take prompt action in response to any report of harassment;
- seek advice from both parties as to how they wish to deal with the situation;
- where appropriate look for other solutions before escalating an issue to higher levels (e.g. investigation);
- provide a supportive environment to those who believe they have been harassed and those accused;
- treat all parties fairly while allegations are dealt with; and
- record and investigate complaints impartially and in line with the firm's policies and processes.

(c) Workers will:

- build a common understanding about what harassment is;
- behave in a manner that does not harass others;
- challenge inappropriate behaviour if they feel safe and comfortable to do so;
- tell the PCBU if they experience or see any harassment - if the PCBU is the alleged harasser, then advise the General Manager;

- follow the firm's processes when reporting harassment; and
  - keep an eye out for other people - providing support when seeing a person being isolated or experiencing reprisals.
- (d) When dealing with an allegation of harassment our firm will:
- treat all matters seriously;
  - make sure complaints are taken seriously, and fairly and impartially investigated, and the alleged harasser is given the opportunity to offer an explanation;
  - make sure investigations are completed in a timely manner;
  - make sure neither the person who complained nor the alleged harasser are victimised (e.g. being punished, bullied, intimidated);
  - support all parties involved (including witnesses and support people);
  - find appropriate remedies and consequences for coned harassment as well as false reports;
  - communicate the process and its outcome;
  - ensure confidentiality;
  - keep good documentation; and
  - get help from specialist.

#### 2.4 Processes for dealing with harassment:

What workers can do if they experience or see harassment. Workers could take one or more of the following four options:

(i) *Seek advice and support*

Talk with a trusted person (e.g. a friend) about what happened. Workers could seek advice and support from others such as a colleague, the PCBU or our General Manager. Workers could seek advice and support from public sector agencies or other organisations, helplines, counsellors, lawyers etc.

Workers can have a support person present at interviews and meetings. To avoid conflicts of interest, the same support person should not support both parties involved.

(ii) *Deal with it themselves*

This means approaching the other person(s) involved to challenge their behaviour. Workers could have a support person when they do this.

But workers don't need to do this - they should only do it if they feel safe and comfortable to do so.

(iii) *Report the harassment to the firm*

To report harassment, workers can make a written or verbal report. The firm will look into all reports. Workers can report harassment to our PCBU or General Manager.

(iv) *Report the harassment to outside agencies*

Workers could instead decide to first seek help from an outside organisation (e.g. the Police for physical assaults and criminal harassment).

Workers could also decide to raise a personal grievance under the *Employment Relations Act 2000* with the firm first and then the Employment Relations Authority or submit a complaint under the *Human Rights Act 1993* with the Human Rights Commission.

A lawyer who has reasonable grounds to suspect that another lawyer may have engaged in misconduct must, or in unsatisfactory conduct may, make a confidential report to the Law Society at the earliest opportunity pursuant to Rules 2.8 and 2.9 of the *RCCC*. The reporting lawyer may have duties and obligations in respect of confidential non-privileged information, and they should first liaise with PCBU to ensure all requirements in this respect are met.

## 2.5 What the firm will do with reports of harassment:

When the firm is given a report, it will do the following:

- Take all reports of harassment seriously;
- Act promptly;
- Set timelines and deal with reports as soon as they can;
- Carefully and clearly consider response options for the specific circumstance;
- Clearly communicate the process;
- Tell everyone involved what the process is;
- Let the people involved know if there are delays to timelines;
- Protect and support the people involved;
- Protect all the people involved (including both sides of the complaint, support people and witnesses) from victimisation (e.g. being punished, bullied, intimidated);
- Anyone involved can have a support person present at interviews or meetings (e.g. in-house support person, colleague, friend, legal representative);
- Tell everyone involved what support and representation is available to them;
- Comply with the principles of natural justice;
- Maintain confidentiality;
- Ensure details of the matter are only known to those directly concerned (including their representative or support person) and those involved in investigating and considering the reported behaviour;
- Treat everyone involved fairly;
- Arrange for someone unbiased and trained to look into the report of harassment;
- Make decisions based on the facts;
- Clearly tell the people involved what actions will be taken (taking into account privacy);
- Keep good documentation;
- Ensure actions and decisions are documented; and
- Store all information securely and where access is restricted.



## 2.6 The PCBU will notify the Law Society if:

- (a) any person is issued a written warning or dismissed by the for conduct that amounts to one or more of the following:
  - (i) bullying
  - (ii) discrimination
  - (iii) harassment
  - (iv) racial harassment
  - (v) sexual harassment
  - (vi) theft
  - (vii) violence
- (b) any worker leaves the firm and within the 12 months before that worker left, the firm has advised that worker that it was dissatisfied with, or intended to investigate, their conduct in relation to any of the types of conduct listed above.

## 3. VICTIMISATION

Workers will not use, or threaten to use, the complaints or disciplinary process for an improper purpose. Workers must not victimise a person who, in good faith:

- (a) makes a complaint or a report under rule 2.8 or 2.9 of the RCCC; or
- (b) is otherwise connected with a complaint or a report under rule 2.8 or 2.9 of the RCCC.

Examples of victimisation include (but are not limited to):

- (a) unwarranted adverse employment-related actions:
- (b) unwarranted withdrawal of instructions:
- (c) conduct that amounts to one or more of the following:
  - (i) bullying
  - (ii) harassment
  - (iii) lack of professional co-operation
  - (iv) racial harassment
  - (v) professional disparagement
  - (vi) sexual harassment

## 4. WHAT IS BULLYING?

Bullying is defined as unreasonable and repeated behaviour towards a person or group that can lead to physical or psychological harm. Repeated behaviour is persistent and can include a range of actions.

Unreasonable behaviour covers actions which a reasonable person wouldn't do in similar circumstances, including victimising, humiliating, intimidating or threatening a person.

A single incident isn't considered bullying but can escalate if ignored. Managing performance in line with business policies and processes is not bullying.

#### 4.1 **PCBU**

The PCBU will do the following to minimise and respond to workplace bullying:

- establish respect for the broad range of human values and character strengths required for the firm to survive.
- actively look for ways to create a positive workplace ('healthy work') that workers feel is pleasant, fair, rewarding and positively challenging.
- encourage positive leadership styles and investing in our workers to achieve this.
- direct attention towards behaviour rather than people and aim to promote harmonious relationships across the firm.
- provide workers who believe they've been bullied with a range of options to resolve the issue.
- promote low-key solutions before formal actions where appropriate.
- aim to repair the working relationship and promote positive work values.
- openly discuss bullying, in both formal and informal settings, and provide information and training about it.
- identify factors that contribute to bullying and put effective control measures in place.
- ensure our processes and systems are fit for purpose and regularly reviewed.

#### 4.2 **General Manager**

The General Manager agrees to:

- ensure workers have clarity on what their roles entail.
- intervene early to call out and deal with any unreasonable behaviour before it escalates.
- record and investigate complaints fairly and in line with our policies and processes.
- look for informal solutions before escalating an issue to higher levels (e.g. mediation or investigation) where appropriate.

#### 4.3 **Workers**

Workers agree to:

- tell the PCBU if they experience or see any bullying behaviours - if the PCBU is the person behaving in a bullying manner, then advise our General Manager.
- try low-key solutions (e.g. talking to the person initially (if safe to do so)).
- follow our informal or formal processes when making a complaint.
- keep an eye out for other people, providing support when seeing a person being isolated or experiencing reprisals.
- accept that perceptions of bullying may need to be negotiated.

#### 4.4 Firm

When dealing with an allegation of bullying our firm will:

- treat all matters seriously and investigate promptly and impartially.
- ensure neither the person who complained nor the alleged bully are victimised.
- support all parties involved.
- find appropriate remedies and consequences for coned bullying as well as false reports.
- communicate the process and its outcome.
- ensure confidentiality.
- use the principles of natural justice.
- keep good documentation.
- have specialist external advisors available to help.

### 5. STRESS IN THE WORKPLACE

Every day, individuals are confronted with a variety of demands or 'stressors'. These may arise from either personal sources (e.g. ill-health, marital discord, family problems, financial uncertainty) or from institutional sources (e.g. work overload or under load, role conflict, lack of control, physical environment, bullying and harassment). Stressors produce a biochemical response in the body which prepare the body to do what is essential during a stressful situation (in preparation for fight or flight).

The stress response is highly functional and can lead to elevated performance through constructive and creative responses, increased and well-directed energy, improved morale and motivation and increased efficiency and effectiveness. Where an individual is exposed to demands that are too intense, frequent or chronic, the stress response can create unhealthy, destructive outcomes to their physical and mental health.

There are wide individual differences in the way we each respond to stressors, and therefore the optimum stress load that maximises performance varies by individual and by task.

Some common signs of stress in individuals are:

- headaches, feeling tired or having difficulty sleeping
- worrying a lot, feeling anxious and tense for no explained reason
- having difficulty concentrating, finding it hard to make decisions
- lower level of confidence, making mistakes, forgetting things
- feeling impatient and irritable, drinking more alcohol, smoking more

#### 5.1 Stressors can be grouped into four categories:

(i) *Physical*

The physical environment in which one works (e.g. temperature, office design, noise, lighting etc.).

- (ii) *Task*  
The nature of the work itself, the specific activities assigned to the worker (e.g. reception, budget management),
- (iii) *Role*  
The expectations that others have of one's role and its function within the firm (e.g. conflicting or ambiguous expectations).
- (iv) *Interpersonal*  
The social, personal and working relationships that exist.

Whilst the firm has no control over a worker's personal life and external factors that may impact on a person's ability to cope at work, we are still able to provide simple and practicable steps to help a worker deal with personal issues (if you know about them). Some examples of the kind of support we could provide in this situation are flexible work arrangements, reduced workload, paid leave or support to attend counselling. Please talk to us.

## **6. REVIEW**

We are entitled to review or otherwise change this policy from time to time, in which case we will make the updated policy available on our website and will provide you with a hard copy of it upon request by you.