



Policy

Anti Discrimination, Harassment & Bullying

Policy Statement

ACT Health is committed to providing a safe and harmonious work environment that enhances the achievements of both individual and organisational goals. In this environment, everyone has the right to be treated fairly and with respect.

ACT Health will not tolerate any workplace discrimination, harassment or bullying behavior, and appropriate action will be taken against individuals engaging in such behavior.

When issues of workplace discrimination, harassment or bullying occur this policy and related standard operating procedures must be followed.

Purpose

This policy supports ACT Health's legal responsibility to promote a safe and productive work environment and supports ACT Health's commitment to the principles of equity and diversity in the workplace.

ACT Health has a responsibility under Territory and Federal legislation to ensure staff are not subjected to behavior that may constitute unlawful discrimination, harassment, vilification or victimisation.

Every individual has the right to bring informal reports or formal complaints to an executive or manager.

Where this behavior is identified in the workplace, staff are encouraged to act by addressing the situation directly and/or by coming forward with a complaint to their Supervisor, Manager, Director, or the Human Resources Management Branch (HRMB).

All informal reports and formal complaints of workplace discrimination, harassment and bullying behavior will be treated seriously, promptly and fairly with due regard to the principles of procedural fairness, natural justice and confidentiality.

Complainants and respondents can be secure in the knowledge that the responsible person will maintain confidentiality where possible.

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Where it is determined by the Delegate that an investigation is to be done, the investigation will be in line with the relevant Enterprise Agreement and the outcome may lead to disciplinary action being taken against the employee whom the allegations have been proven.

Acceptable management action taken in a reasonable way is not considered workplace bullying.

Scope

This policy applies to all ACT Health staff, supporting them to take immediate and effective action. The policy does not limit the right of any staff member to seek the advice and assistance of their union or professional association, or an external agency.

Though this policy applies to all staff, the outcomes for temporary, casual and probationary employees differ from those for permanent or temporary employees with contracts of two years or more.

For incidents of bullying, harassment and discrimination of staff by patients, consumers or clients refer to the *Preventing and Managing Aggression and Violence in ACT Health Policy* (see ACT Health Policy Register).

Roles & Responsibilities

Chief Executive or the Delegate - The Chief Executive or the Delegate (this could be a General Manager or an Executive Director) will act within the boundaries of this policy and guidelines, relevant legislation and Enterprise Agreements in a timely manner and make any decision within the principles of procedural fairness and natural justice, taking into account all the evidence relating to the matter at hand.

All staff - All ACT Health staff are responsible for ensuring that their behaviour contributes to an environment that is free from discrimination, bullying and harassment. All staff members have an obligation to observe standards of equity and justice in dealing with other members of staff, to treat each other with respect, and to refrain from all forms of harassment. Staff are to comply with acceptable management action.

Supervisors and Managers - Supervisors and managers are responsible for understanding and following all ACT Health policies and procedures to prevent discrimination, bullying and harassment. This includes:

- Providing a model of good conduct through their own behaviour;
- Undertaking training in managing and preventing bullying and harassment;
- Identifying and addressing problems through appropriate management practices;
- Ensuring staff understand procedures and related ACT Health policies;
- Notifying the Human Resource Management Branch where a staff member has had repeated complaints made against them; and
- Maintaining accurate records of all dealings with reports or complaints of discriminatory, harassment and bullying behaviours reported by their staff.

Resolution of discrimination and harassment complaints is an integral part of a supervisor's duties.

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Under Territory and Federal law, ACT Health may be found liable for discrimination or harassment that occurs, unless it can show it took all reasonable steps to prevent and deal effectively with complaints, through effective and accurate record keeping practices.

Complainants - Staff making complaints have the responsibility to:

- Follow the complaint and resolution process;
- Actively participate in attempts to resolve their grievance;
- Not make vexatious or malicious complaints;
- Recognise that the principles of natural justice and procedural fairness will be followed for both parties; and
- Not victimise or harass the respondent or others involved in resolving the grievance in any way.

Respondents - Staff against whom a grievance has been lodged have a responsibility to:

- Be treated in accordance with the principles of natural justice and procedural fairness;
- Actively participate in attempts to resolve the issues;
- Recognise the complainant's right to raise their concerns;
- Be aware of and follow the complaint and resolution process; and
- Not victimise or harass the complainant or others involved in resolving the grievance in any way.

Evaluation

▪ Outcome Measure

Employees will be able to attend work in a safe and harmonious environment that allows each individual to work productively.

▪ Method

- ACT Health biennial employee survey will be monitored for improvement in the area of work environment and employee comments relating to work relationships.
- Human Resource Management Branch will monitor the resolution of bullying, harassment and discrimination issues reported by staff for compliance with the policy and related Standard Operating Procedure.
- Human Resource Management Branch will monitor the resolution of bullying, harassment and discrimination issues reported by Managers for compliance with the policy and related Standard Operating Procedure.

Related Legislation and Policies

- Enterprise Agreements;
- ACTPS Public Sector Management Act 1994 and Standards;
- Work Safety Act 2008;
- Fair Work Act 2009 (Cwlth) and Regulations;
- Human Rights Act 2004;
- Discrimination Act (ACT) 1991; and
- Territory Records Act 2002

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Definition of Terms

Acceptable management action may include but not limited to

- Setting performance goals and deadlines;
- Equitable allocation of work in accordance with employees capability and level;
- Informing employees of unsatisfactory work performance in a professional and constructive manner;
- Addressing unacceptable workplace behaviour.

Bullying is the repeated, unwelcome behaviour of a person/s which has the potential to cause harm to a person/s wellbeing and may include;

- Continued aggressive behaviour that intimidates, humiliates or undermines a person
- Deliberate misuse of power, and can come from people at level, above or below the employee; and
- It can also occur outside of work location or hours and still affect an employees work performance or well being.

Complainant is the employee reporting an act of bullying behaviour to their manager.

Discrimination is the unfair treatment of an individual or group of people because they belong to, or are associated with a particular individual / group, or because that have a particular characteristic or attribute.

Harassment is any form of behaviour that is unwelcome, offensive humiliating or threatening. This can include creating an atmosphere that is offensive, humiliating or threatening. Harassment may have occurred even when there was no intention to cause offence.

Natural Justice ensures that fairness is provided to all parties and some of the principles include;

- Allegations should be investigated promptly;
- All allegations need to be put to the person that are made against;
- Persons who allegations have been made against should be treated as innocent, unless allegations are proven to be true;
- Both parties must be given the opportunity to respond, respond, explain their version of events, and provide all information to ensure their response is complete
- Any disciplinary action needs to be commensurate with the seriousness of the offence.

Procedural Fairness is following a process that is neutral, unbiased and respectful to the rights of parties involved in an investigation, and some of the principles are;

- Right to be heard;
- Right to be treated without prejudice;
- Right to be informed of allegations being made;
- Opportunity to respond;
- Right to enquire about the status of the grievance.

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Respondent is the employee against whom a complaint has been lodged.

Staff – means an officer or employee appointed or engaged under the *Public Sector Management Act 1994*.

References

This policy needs to be read in conjunction with:

ACT Human Rights Office website <http://www.hro.act.gov.au/>

Australian Human Rights Office website <http://www.hreoc.gov.au/>

Attachments

Operational Procedures are attached

Disclaimer: *This document has been developed by ACT Health, Human Resources Management Branch specifically for its own use, and will be reviewed in line with any legislation or Enterprise Agreement changes. Use of this document and any reliance on the information contained therein by any third party is at his or her own risk and ACT Health assumes no responsibility whatsoever.*

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