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Public Employment Office April 1996

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# **Harassment Free Workplace**

## **Policy and Guidelines**

## Premier's foreword

The Government is committed to achieving and maintaining workplaces which are free from all forms of harassment.

The Harassment Free Workplace Policy and Guidelines has been developed in consultation with public sector agencies and unions. The policy is based on the principles of sound people management and ethical behaviour.

The policy and guidelines will assist agencies to achieve and maintain workplaces which are free from all forms of harassment and to implement strategies for preventing and dealing with harassment.

New South Wales public agencies are required to develop a policy for the elimination of harassment, including strategies to create an environment which is productive and harmonious and where it is clear harassment is not tolerated. The attached policy provides guidelines which may be considered by public agencies when developing their own policy. Strategies should be included to develop and communicate the agency's policy through workplace consultation. The policy must indicate that prompt action will be taken if harassment occurs.

Harassment Free Workplaces Training Activities for Managers and Supervisors which was developed by the Office of the Director of Equal Opportunity in Public Employment is available to assist agencies with implementation. Other publications are being developed to assist agencies.

I commend this policy to you.

Bob Carr  
Premier

## Policy statement

The New South Wales Government requires public agencies to achieve and maintain workplaces which are free from all forms of harassment.

Agencies are required to have a policy on harassment free workplaces and to implement strategies for preventing and dealing with harassment.

## Principles

To prevent or deal with harassment in the workplace an agency needs to develop and implement a policy based on the following principles:

- management has responsibility to ensure the workplace is free of harassment;
- good people management practices;
- fostering standards of ethical behaviour and conduct that contribute to a productive and customer focused workplace;
- prompt action to be taken when harassment occurs; and
- public employees are to treat each other and their customers fairly and with respect and sensitivity.

# Legislative provisions

## NSW

- Anti-Discrimination Act 1977
- Public Sector Management Act 1988
- Industrial Relations Act 1991
- Occupational Health and Safety Act 1983

## Commonwealth

- Sex Discrimination Act 1984
- Race Discrimination Act 1976
- Disability Discrimination Act 1992
- Human Rights and Equal Opportunity Act 1984
- Industrial Relations Act 1988

## **Related policies**

- Dealing with Employees Work-related Concerns and Grievances: Policy and Guidelines
- Personnel Handbook, Division 3, Conduct and Discipline
- Performance Management: Policy and guidelines
- Management of Unsatisfactory Performance
- Freedom of Information and Access to Personal Records

## What is harassment?

Harassment is unwelcomed or unreciprocated behaviour which makes an employee or customer feel intimidated, offended, or belittled in the workplace. It can take place between:

- an employee and a manager or supervisor;
- co-workers; or
- an employee and another person in the workplace, for example a customer or student.

Harassment can occur in any location where people are working including those where services are delivered outside the usual place of work, such as a customer's home.

## Harassment and the law

Harassment is a form of unlawful discrimination. Under the Anti-Discrimination Act 1977 (NSW), it is unlawful to discriminate in employment or in providing a service on the grounds of:

- a person's sex (including pregnancy), race, disability, marital status, age, homosexuality, transgender or carer's responsibilities;
- a person's presumed or perceived disability, homosexuality, transgender or carer's responsibilities;
- the sex (including pregnancy), race, disability, marital status, age, homosexuality or transgender of their associate or relative; and
- the perceived or presumed disability, homosexuality or transgender of their associate or relative.

Harassment based on sex, race, or disability is also unlawful under Commonwealth laws and harassment such as physical assault can be a criminal offence.

## Examples of harassment

If unwelcomed or unreciprocated, the following behaviours could be examples of harassment:

- physical contact or requests for sexual favours;
- persistent following (stalking);
- suggestive looks implying a sexual interest;
- persistent verbal abuse or threats; or
- persistently disrupting an individual's work, work space, equipment or interfering with their personal property.

Other forms of harassment whether directed at a person or a group can include:

- jokes, derogatory or dismissive comments;
- gestures that are insulting or belittling;
- circulating, displaying written or pictorial material that is offensive or belittling.

## **Impact of harassment on workplaces**

Workplace harassment imposes substantial costs. These can include lost productivity, lowering morale and loss of reputation as an employer and service provider.

Additional costs can be incurred if an employee takes legal action because of harassment. In 1993, under anti-discrimination laws damages in excess of \$90,000 were awarded against an employer in a sexual harassment case.

Harassment can result in employees suffering a loss of reputation or the termination of employment where circumstances justify this.

## Sound people management principles

The prevention of harassment is assisted by sound people management principles that maintain workplaces where:

- people are valued, have dignity and treat each other with respect and sensitivity;
- there is trust and effective communication;
- people are treated as partners in the business of the workplace;
- the focus is on mutually agreed outcomes with identified performance standards;
- work practices take account of the diversity of employees particularly in regard to:
  - flexible working arrangements; and
  - opportunities for training and experience.

## Accountabilities and responsibilities

Accountability for people management, including the prevention of harassment, is the responsibility of Ministers, Chief Executives, Senior Executives, Managers and Supervisors.

These accountabilities should be included in their performance agreements and job descriptions.

### Executives, managers and supervisors

The Chief Executive and executive team have a leadership role in demonstrating acceptable workplace behaviour. Senior executives, managers and supervisors are responsible for ensuring the workplace is free of harassment. They should:

- actively promote and support the agency's policy and strategies for harassment prevention; and
- take appropriate action in circumstances where they become aware of harassment without a complaint being lodged.

### Employees

Employees have a responsibility to ensure their behaviour:

- meets an acceptable standard; and
- contributes to a productive workplace environment.

Any improper behaviour observed should be reported to a supervisor, manager, or other authorised person.

Employees who experience harassment should ensure they take action which can include:

- seeking advice and support through the agency procedures established to deal with employee work-related concerns and grievances;
- telling the person concerned to stop the offending behaviour (the employee may seek support before taking this step); and/or
- lodging a complaint through the agency's grievance procedures.

## Dealing with employee concerns and grievances

A system to manage employee work-related concerns and grievances needs to take account of the requirements of the Industrial Relations Act and grievance handling procedures in awards and agreements.

To be effective in dealing with harassment issues the procedures need to be sensitive to the personal issues that can be involved. They should include avenues through which employees can seek advice and support, and informal and formal processes to deal with complaints.

An employee with a complaint of harassment is to be made aware of:

- appropriate internal processes, which could be part of the agency's grievance policy;
- appropriate external avenues for dealing with the issue, for example the Anti-Discrimination Board; and
- their entitlement to seek the advice and support of their union and be represented by the union.

## **Reporting requirements**

Part 9A of the NSW Anti-Discrimination Act 1977 requires public agencies to report to the Director of Equal Opportunity in Public Employment on actions taken to implement equal employment opportunity programs and outcomes. Preventing harassment and handling complaints appropriately are integral to such programs.

# Suggested procedures

## Developing policies and strategies

Consultation and the involvement of employees and managers is recommended in developing harassment prevention policies and strategies. This can help gain employee commitment, and assists in tailoring the strategies to agency and employee needs.

Agencies are advised to consult with members of EEO groups so that special needs can be identified and accommodated.

## An agency harassment free workplace policy

An agency workplace harassment policy signed by the Chief Executive is an explicit statement of the agency's commitment to eliminating harassment.

It is suggested the policy include:

- what is meant by harassment;
- a commitment to a workplace environment that values people and is free from harassment;
- a commitment to prompt action when harassment occurs;
- the responsibility of executives, managers and supervisors to apply people management practices that foster a harassment free workplace; and
- the responsibility of employees in preventing harassment.

## Strategies to prevent harassment

Agencies are to implement strategies to prevent harassment. Examples of strategies includes:

- addressing the need for ethical standards of behaviour in the agency's code of conduct;
- issuing and regularly promoting a policy on harassment free workplaces;
- establishing and regularly promoting procedures to deal with work-related concerns and grievances;
- integrating the issue of preventing harassment into the training of managers and supervisors;

- providing managers and supervisors with training to develop their skills in dealing with employee workplace concerns and issues;
- providing training for employees about standards of workplace behaviour, their roles and obligations, and procedures for dealing with their concerns and issues;
- collecting information which enables management to understand the culture of the organisation and monitor workplace behaviour; and
- monitoring and evaluating the implementation of the policy, strategies and procedures.

## Communicating the policy

The following methods of communicating policy within agencies have proven to be useful:

- publicity materials - brochures, posters, stickers, and agency-specific video or audio tapes to provide information to people, including employees in remote locations;
- training or information sessions specifically about workplace harassment and its prevention;
- discussion at staff meetings about preventing workplace harassment;
- well publicised procedures for dealing with employee concerns and grievances;
- in response to the diversity of the work force:
  - the publication of material in community languages where appropriate,
  - the development of alternative print for people with a visual impairment, and
  - the use of sign language interpreters for people with hearing impairments;
- articles related to harassment prevention published in agency newsletters, and
- reminders of agency policy attached to pay advice slips.

## Further information

### Advice, assistance and publications

The Director of Equal Employment Opportunity in Public Employment  
Level 17, Bligh House, 4–6 Bligh Street  
Sydney NSW 2000  
Telephone (02) 9228 4444 Fax (02) 9228 3500  
TTY (02) 9228 3544

The Anti-Discrimination Board of NSW  
Level 17, 201 Elizabeth Street  
Sydney NSW 2000  
Telephone (02) 9268 5555 Fax (02) 9268 5500  
TTY Telephone (02) 9268 5522

### Publications of particular interest

- Harassment in the workplaces: What it is? Why it needs tackling? How to prevent it? Guidelines for employers, managers, supervisors and EEO personnel, published by Anti-Discrimination Board of New South Wales. Sydney, 1996 and available from the Board.
- Harassment Free Workplaces -Training Activities for Managers and Supervisors, available from the Office of the Director of Equal Opportunity in Public Employment (ODEOPE).
- Dealing with Employee Work-related Concerns and Grievances: Policy and Guidelines, available from the Office of the Director of Equal Opportunity in Public Employment (ODEOPE) and the Public Employment Office (PEO).