

APPROPRIATE WORKPLACE BEHAVIOUR POLICY



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Responsible Officer	Executive Manager People, Culture & Safety
Applicable Legislation	Fair Work Act 2009, Fair Work Regulations 2009, Sex Discrimination Act 1984, Racial Discrimination Act 1975, Disability Discrimination Act 1992, Age Discrimination Act 2004, Australian Human Rights Commission Act 1986, Equal Opportunity Act 1984, Occupational Safety and Health Act 1984

WAFC CORE VALUES

Our People | Our Relationships | Being our Very Best | Leading our Industry

PURPOSE

The WAFC expects everyone representing the WAFC to treat people with respect and to behave in a professional manner.

The WAFC regards all forms of unlawful discrimination, harassment, victimisation, vilification and bullying as intolerable and believes that all people have the right to work in a safe, healthy and tolerant environment which is free of these types of unacceptable behaviours.

The purpose of this policy is to provide information about legislative requirements and best practice relating to appropriate workplace behavior and promote the treatment of others with dignity, courtesy and respect.

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POLICY DETAILS

APPLICATION & SCOPE

This policy applies to:

- all current employees and applicants applying for WAFC roles, contractors, subcontractors, volunteers, work experience students and agents (“workplace participants”);
- on-site, off-site or after hours work, work-related social functions, celebrations, group functions, training sessions and conferences, and anywhere staff may be as a result of their WAFC duties;
- every aspect of employment including recruitment and selection (including the treatment of job candidates), conditions and benefits, training and promotion, task allocation, shifts, hours, leave arrangements, workload, equipment and transport;
- how the WAFC and its employees treat, interact with and provide service to other employees (including prospective, current and former employees), clients and members of the public in the course of their WAFC duties;
- This policy is not incorporated into and does not form part of any employee’s contract of employment or other person’s contract for service; and
- This policy is not intended to override the terms of the applicable legislation, award, enterprise agreement or contract of employment that may apply to an employee.

EQUAL EMPLOYMENT OPPORTUNITY

The WAFC is committed to creating a working environment in which all workplace participants are treated fairly and equitably and are not subjected to bullying, unlawful discrimination, vilification, victimisation or harassment.

Any reports of such behaviour will be treated seriously by the WAFC and will be investigated.

Victimisation of complainants will not be tolerated.

Disciplinary action will be taken against anyone found to have breached this policy.

It is important to note that a behaviour may be perceived as bullying, discrimination, vilification, victimisation or harassment, even if it was not the person’s intent to do so and therefore the effect of the behaviour as opposed to intent may be sufficient to take action.

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WAFC OBJECTIVES

The WAFC aims to:

- uphold the right of all people in the workplace to a safe working and learning environment free from unlawful discrimination, bullying, vilification, victimisation and sexual harassment;
- establish, maintain and promote a working environment where people are treated with dignity, courtesy and respect;
- implement training and awareness strategies to ensure that workplace participants know their rights and responsibilities;
- have effective procedures in place should breach of this policy occur;
- treat all complaints in a sensitive, confidential, fair and timely manner;
- encourage the reporting of all incidents; and
- take appropriate action against any person found to be in breach of this policy, which may include counselling, warning, or discipline, with severe breaches leading to more formal disciplinary action which, for employees, may include termination of employment.

UNLAWFUL WORKPLACE DISCRIMINATION

Discrimination may be direct or indirect and occurs when the treatment (or proposed treatment) of a person, or group of people is less favourable because of the knowledge or presumption of their background or certain personal characteristics which are protected by law.

Direct discrimination means treating or proposing to treat a person less favourably than another person or group in a similar situation, on the basis of a certain attribute or personal characteristic protected by law, regardless of the nature or whether the discriminator is aware of the discrimination.

Indirect discrimination is often unintentional and means unreasonably imposing or intending to impose a requirement, condition or practice that has, or is likely to have, the effect of disadvantaging people with a particular characteristic protected by law.

Protected Personal Characteristics (Prohibited Reasons)

Under the relevant legislation, it is unlawful to discriminate against anyone on a variety of grounds including, but not limited to the following:

- Age (whether young, old, or because of age in general);
- Carer or Parental Status (meaning a person on whom another is wholly or substantially dependent);
- Criminal record;
- Disability or impairment (including physical, psychological and intellectual disabilities);
- Industrial activity (including being a member of a union, taking part in industrial activity or not being part of a union);
- Marital status (whether married, divorced, unmarried or in a de facto relationship or same sex relationship);
- Medical record;
- Personal association (having or assumed association with a person or group who has one or more of the protected attributes);
- Physical features (such as height, weight, size, etc.);
- Political belief or activity;
- Pregnancy (or potential pregnancy) and breastfeeding;
- Race, colour, descent, nationality and ethnic, ethno-religious, nationals or social origin;
- Religious belief;
- Sex; and
- Sexual orientation (including lawful sexual activity), intersex status or gender identity (including gay, lesbian, bisexual, transsexual, transgender, queer and heterosexual).

It is also against the law to treat someone unfavourably because you assume they have a personal characteristic or may have it at some time in the future.

There are limited circumstances where discrimination is allowed i.e. if the discrimination relates to the inherent nature of the job. If in doubt, please contact the People, Culture & Safety team before making any decisions or taking any action.

VILIFICATION

Vilification is doing something in public which is likely to offend, insult, humiliate or intimidate and may incite hatred, severe contempt or severe ridicule of a person or class of persons, because of race, religion, sexuality or gender identity. Vilification is a particularly serious breach of EEO laws and will be dealt with accordingly.

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WORKPLACE HARRASSMENT

Harassment is any unwanted physical, verbal or non-verbal conduct which can be regarded as offensive, humiliating or intimidating. Harassment is unlawful when related to a discriminatory ground within the meaning of the listed anti-discrimination legislation, including but not limited to age, disability, gender identity, marriage and civil partnership, pregnancy or maternity, race, religion or belief, sex or sexual orientation. Harassment:

- may be an isolated incident, a series of events or an ongoing pattern of behaviour;
- can take the form of written, verbal or physical behaviour; and
- can be intentional or unintentional.

Harassment can take many forms and individuals may not always realise that their behaviour constitutes harassment. What is required under law is that a reasonable person would consider that the person being harassed would be offended, humiliated or intimidated by the behaviour in question. The actual motives or intentions of the person engaging in the conduct are irrelevant to whether the behaviour is considered to be harassment or not.

Examples may include, but are not limited to, sexual harassment (being the most common), offensive or obscene language, racist comments or jokes, deliberate exclusion from conversation, distributing offensive material, verbal abuse, derogatory comments and mimicking a person's accent, disability or other personal attributes.

Sexual Harassment

Sexual harassment means an unwelcome sexual advance, an unwelcome request for sexual favours or other unwelcome conduct of a sexual nature in circumstances which has the effect, whether intended or unintended, of making a reasonable person feel offended, humiliated or intimidated by the conduct

Just because someone does not object to inappropriate behaviour in the workplace at the time, it does not mean that they are consenting to the behaviour.

Examples include but are not limited to:

- smutty jokes or comments;
- comments about a person's private life or the way they look;
- making promises or threats in return for sexual favours;
- displays of sexually graphic material including posters, pinups, cartoons, graffiti or messages left on notice boards, desks or common areas;
- accessing sexually explicit internet sites;
- repeated invitations to go out after prior refusal;
- "flashing" or sexual gestures;
- sex-based insults, taunts, teasing, or name-calling;
- sexually suggestive behaviour, such as staring or leering at a person or at parts of their body;

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- unwelcome physical contact such as massaging a person without invitation or deliberately brushing up against them, touching, fondling or hugging;
 - touching or interfering with a person's clothing including lifting up skirts or shirts or putting hands in a person's pocket;
 - requests for sex;
 - sexually explicit conversation;
 - persistent questions or insinuations about a person's private life;
 - inappropriate advances on social networking sites;
 - offensive phone calls or letters;
 - behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications
 - stalking;
 - offensive email messages or computer screen savers; and
 - the use of a potential or current employee's submission to or rejection of such conduct as the basis of an employment decision (i.e. hiring, firing, promotion, demotion, compensation, benefits or working conditions).

BULLYING

Bullying is defined as repeated, unreasonable behaviour conducted by a workplace participant/s, directed towards another worker or group of workers, which creates a risk to health and safety. This includes both physical and psychological risk.

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

Unreasonable behaviour means behaviour that a reasonable person, having regard to all the circumstances, would see as victimising, humiliating, threatening or undermining another person, regardless of what the intention of the behaviour is.

Bullying behaviour may be direct or indirect, and verbal, physical or written. Workplace bullying may occur between colleagues, visitors to the workplace, a group of workers and managers. If someone is being bullied because of a protected personal characteristic, it is a form of discrimination and does not have to be repeated; it can be a one-off event.

Bullying may be overt or covert. Examples of bullying include but are not limited to:

- behaving aggressively;
- sarcasm and other forms of demeaning language;
- threats, abuse or shouting;
- coercion;
- isolation;
- inappropriate blaming;

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- ganging up;
 - teasing or practical jokes;
 - pressuring someone to behave inappropriately;
 - isolation (e.g. excluding someone from work-related events); or
 - setting tasks that are unreasonably below or above someone's role level

What isn't workplace bullying and/or harassment?

A manager or supervisor can make decisions about poor performance, take disciplinary action, and direct and control the way work is carried out. Bullying does not include reasonable management action, direction, performance counselling or feedback carried out in a reasonable manner.

VICTIMISATION

Victimisation is subjecting or threatening to subject someone to a detriment because they have:

- asserted their rights under equal opportunity law;
- made (or propose to make) a grievance;
- helped (or propose to help) someone else make a grievance;
- provided (or propose to provide) information or documentation relating to a grievance or
- refused to do something because it would be discrimination, sexual harassment or victimisation.

It is also victimisation to threaten someone (such as a witness) who may be involved in investigating an equal opportunity concern or complaint.

Such provisions are intended to ensure that those who are entitled to invoke the legislation are not prevented from doing so by the fear of further reprisals.

Victimisation is an offence under various legislation. WAFC will not tolerate any victimisation in relation to a person who has made a complaint in good faith. If a person is found to have victimised another person for making a complaint, they may face disciplinary action up to and including termination of employment or contract for service.

CONFIDENTIALITY

It is unacceptable for workplace participants to talk with other workplace participants, clients or suppliers about any complaint of discrimination or harassment.

WAFC will ensure strict confidentiality is maintained as far as possible during the handling of any complaint. All persons who are involved in a complaint are required to maintain strict confidentiality, and shall not discuss the complaint handling process or outcomes with another employees, third-parties and others persons in the workplace.

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Breaching the confidentiality of a formal complaint investigation or inappropriately disclosing personal information obtained in a professional role (for example, as a manager) is a serious breach of this policy and may lead to formal disciplinary action, including and up to termination of employment.

RAISING A GRIEVANCE

The WAFC strongly encourages any employee who believes they have been discriminated against, bullied, sexually harassed or victimised to take appropriate action by following the procedures set out in the Grievance Resolution Procedure. All other workplace participants can, in the first instance, raise their grievance with their relevant manager or supervisor. If not appropriate to do so, the workplace participant can raise the grievance with the relevant business unit Executive Manager or the Executive Manager- People, Culture & Safety.

Any workplace participants (including employees) that are concerned about another workplace participant being discriminated against, bullied, sexually harassed or victimised should in the first instance, raise their concerns with their manager/supervisor. If not appropriate to do so, the workplace participant should raise their concerns with either their business unit Executive Manager or the Executive Manager- People, Culture & Safety. Any manager or supervisor that receives a complaint should follow the procedures set out in the Grievance Resolution Procedure.

Workplace participants also have the right to raise concerns relating to sexual harassment, bullying and discrimination in the workplace with the Western Australian Equal Opportunity Commission (www.eoc.wa.gov.au, for Equal Opportunity (08 9216 3900).

CONSEQUENCES IF THIS POLICY IS BREACHED

Where breaches of this policy are substantiated, the consequences to the person or persons against whom the complaint is made will depend on a range of factors, such as the seriousness of the case. A range of appropriate action is listed (though not limited to) below:

- formal apology;
- counselling;
- undertaking that inappropriate behaviour will cease;
- clarification of expectations about appropriate conduct;
- issuing a warning in relation to the consequences of continued behaviour;
- implementing a period of formal monitoring; and
- disciplinary action, up to and including dismissal.

Any manager or supervisor who is made aware of any conduct that constitutes discrimination, sexual or other harassment, bullying or victimisation in violation of this policy, and who fails to deal with the conduct or report the conduct to the appropriate personnel may also be subject to disciplinary action, up to and including termination of employment.

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Any person who makes a fraudulent or vexatious complaint may face disciplinary action up to and including termination of employment or contract for service.

EMPLOYEE SUPPORT/COUNSELLING

For additional support, WAFC employees and their eligible family members are able to access the free 24 hour confidential counselling from the WAFC's Employee Assistance Program provider, Benestar (1300 360 364).

QUESTIONS/FURTHER INFORMATION

Any questions about this policy should be directed to a person's manager, supervisor or to the People, Culture & Safety team.

Further information about related legislative requirements and provisions may be found www.fairwork.gov.au.