



P012- Harassment and Bullying

Version	Approved:	Comments	Next review date
1.0	21/05/2018		01/09/2017
2.00	14/5/2018	Implemented changes as recommended by workplace assured. Replaced previous content with Workplace Assured content. Maintained 'our commitment' section and Appendix.	

Applies to:
All staff

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PURPOSE

This policy is designed to assist the Business in its aims to:

- Provide an environment where employees and others in the workplace are treated fairly and with respect, and are free from unlawful discrimination, harassment and bullying; and
- Ensure that when employment decisions are made, they are based on merit, not on irrelevant attributes or characteristics that an individual may possess. The Company also tries to create a work environment which promotes good working relationships.

POLICY

This Policy applies to employees, agents and contractors (including temporary contractors) of the Business, collectively referred to in this Policy as 'workplace participants'. This Policy is not limited to the workplace or work hours. This Policy extends to all functions and places that are work related. For example, work lunches, conferences, Christmas parties and client functions. This policy does not form part of the contract of an employee, agent or contractor and may be varied at any time by the Business.

Our commitment

First Call Nursing is committed to providing a safe and healthy workplace free from bullying.

Workers are protected by this policy if they feel bullied by a supervisor, another worker, client, contractor or member of the public.

First Call Nursing will treat reports of workplace bullying seriously. We will respond promptly, impartially and confidentially.

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

Discrimination

Direct discrimination in employment occurs when a person is treated less favourably than another in their employment because of a reason or ground which is prohibited by law. The prohibited grounds of discrimination are set out in the Federal, State and Territory anti-discrimination laws and include sex, race, age etc.

A full list of the grounds of discrimination which operate federally and in the State and/or Territories in which workplace participants undertake their work for the Business will be relevant and are listed below:

- Race (including colour, nationality, descent, ethnic, ethno-religious or national origin).
- Religious belief, affiliation, conviction or activity.
- Sex.
- Marital status, domestic status, relationship status.
- Pregnancy (including potential pregnancy).
- Homosexuality, transsexuality, sexuality, sexual preference/orientation, lawful sexual activity, gender identity.
- Carers' responsibilities, family responsibilities, carer or parental status, being childless.
- Disability/impairment, including physical, mental and intellectual disability.
- Breastfeeding.
- Age (including compulsory retirement).
- Industrial/trade union membership, non-membership or activity.
- Political belief, opinion, affiliation, conviction or activity.
- Employer association membership, non-membership or activity.
- Employment activity.
- HIV/AIDS.
- Defence service.

- Association (i.e. association with a person who has one or more of the attributes for which discrimination is prohibited).

While discrimination on the basis of irrelevant criminal record is only unlawful in the Northern Territory and Tasmania, a person may still make a complaint to the Australian Human Rights Commission about being discriminated against because of their irrelevant criminal record. Because this type of discrimination is not 'unlawful' under the Commonwealth laws, the Commission has no powers to make orders for compensation or make other orders to compel a party to do something. The Commission's powers are limited to making a recommendation for action (whether compensation or otherwise) and to 'tabling' their report in parliament (which is tantamount to 'naming and shaming').

Separately to ordinary discrimination laws, there are laws in the Commonwealth, New South Wales, Queensland, the Australian Capital Territory, Northern Territory, Western Australia and Tasmania, that prohibit persons from taking spent criminal records into account or otherwise disclosing the details of a spent criminal record.

Harassment

Harassment is unwelcome conduct directed towards a person based on a ground of discrimination (as set out above), that a reasonable person would expect to offend, humiliate or intimidate.

Sexual harassment is unwelcome conduct of a sexual nature, which makes a person feel offended, humiliated or intimidated. Conduct can amount to sexual harassment even if the person did not intend to offend, humiliate or intimidate the other person. However, conduct will not be sexual harassment if a reasonable person, having regard to all the circumstances, would not have anticipated that the conduct would offend, humiliate or intimidate the other person.

Sexual harassment does not have to be directed at a particular individual to be unlawful. Behaviour which creates a hostile working environment for other workplace participants can also be unlawful.

Examples of sexual harassment include, but are not limited to:

- Physical contact such as pinching, touching, grabbing, kissing or hugging.
- Staring or leering at a person or at parts of their body.
- Sexual jokes or comments.
- Requests for sexual favours.
- Persistent requests to go out, where they are refused.
- Sexually explicit conversations.
- Displays of offensive material such as posters, screen savers, internet material etc.
- Accessing or downloading sexually explicit material from the internet.
- Suggestive comments about a person's body or appearance.
- Sending rude or offensive emails, attachments or text messages.

Bullying

What is workplace bullying?

Workplace bullying is repeated, unreasonable behaviour by an individual or group of individuals, directed towards a worker or a group of workers that creates a risk to health and safety. It includes both physical and psychological risks and abuse.

'Repeated behaviour' refers to the persistent nature of behaviour and can refer to a range or pattern of behaviours over a period of time (for example, verbal abuse, unreasonable criticism, isolation and subsequently being denied opportunities – i.e. a pattern is being established from a series of events).

'Unreasonable behaviour' means behaviour that a reasonable person, having regard to all the circumstances, would view as unreasonable in the circumstances and may result in that employee feeling victimised, humiliated, undermined or threatened by that behaviour.

Examples of workplace bullying

- Bullying behaviours can take many different forms, from the obvious (direct) to the more subtle (indirect).
- The following are some examples of both direct and indirect bullying.

Direct bullying includes:

- Abusive, insulting or offensive language or comments.
- Spreading misinformation or malicious rumours.
- Behaviour or language that frightens, humiliates, belittles or degrades, including over-criticising, or criticism that is delivered with yelling or screaming.
- Displaying offensive material.
- Inappropriate comments about a person's appearance, lifestyle, family, sexual preferences or any personal or private matter.
- Teasing or regularly making someone the focus of pranks or practical jokes.
- Interfering with a person's personal property or work equipment.
- Harmful or offensive initiation practices.

Indirect bullying includes:

- Unreasonably overloading a person with work, or not providing enough work.
- Setting timeframes that are difficult to achieve, or constantly changing them.
- Setting tasks that are unreasonably below, or above, a person's skill level.
- Deliberately excluding or isolating a person from normal work activities.
- Withholding information that is necessary for effective performance of the person's job.
- Deliberately denying access to resources or workplace benefit and entitlements (for example, training, leave etc.).
- Deliberately changing work arrangements, such as rosters and leave to inconvenience a particular worker or workers.

The above examples do not represent a complete list of bullying behaviours. They are indicative of the type of behaviours which may constitute bullying and therefore are unacceptable to the Business.

A single incident of unreasonable behaviour does not usually constitute bullying. However, it should not be ignored as it may have the potential to escalate into bullying behaviour.

A person's intention is irrelevant when determining if bullying has occurred. Bullying can occur unintentionally, where actions which are not intended to victimise, humiliate, undermine or threaten a person actually have that effect.

Bullying in the workplace is harmful not only to the target of the behaviour but damages the Business culture and reputation. It is unacceptable and will not be tolerated.

What does not constitute workplace bullying?

Managing workplace participants does not constitute bullying, if it is done in a reasonable manner. Managers have the right, and are obliged to manage workplace participants. This includes directing the way in which work is performed, undertaking performance reviews and providing feedback (even if negative), and disciplining and counselling staff.

Examples of reasonable management practices include:

- Setting reasonable performance goals, standards and deadlines in consultation with workers and after considering their respective skills and experience.
- Allocating work fairly.
- Rostering and allocating working hours in a fair and reasonable manner.
- Transferring a workplace participant for legitimate and explained operational reasons.
- Deciding not to select a workplace participant for promotion, following a fair and documented process.
- Informing a workplace participant about unsatisfactory work performance in a constructive way and in accordance with any workplace policies or agreements.
- Informing a workplace participant about inappropriate behaviour in an objective and confidential way.
- Implementing organisational changes or restructuring.
- Conducting performance management processes.

Rights and responsibilities

All workplace participants must:

- Understand and comply with this Policy.
- Ensure they do not engage in any unlawful conduct towards other workplace participants, customers/clients or others with whom they come into contact through work.
- Ensure they do not aid, abet or encourage other persons to engage in unlawful conduct.
- Follow the Complaints and Grievance Policy if they experience any unlawful conduct.
- Report any unlawful conduct they see occurring to others in the workplace in accordance with the Complaints and Grievance Policy.
- Maintain confidentiality if they are involved in the complaint procedure.

Workplace participants should be aware that they can be held legally responsible for their unlawful conduct.

Workplace participants, who aid, abet or encourage other persons to engage in unlawful conduct, can also be legally liable.

Failing to comply with this policy

- All workplace participants are required to comply with this Policy at all times. If an employee breaches this Policy, they may be subject to disciplinary action. In serious cases this may include termination of employment. Agents and contractors (including temporary contractors)

who are found to have breached this Policy may have their contracts with the Company terminated or not renewed.

- If a person makes an unfounded complaint or a false complaint in bad faith (e.g. making up a complaint to get someone else in trouble or making a complaint where there is no foundation for the complaint), that person may be disciplined and may be exposed to a defamation claim.

APPENDIX - FURTHER INFORMATION

Work Health and Safety Regulators

New South Wales

WorkCover NSW

Website: www.workcover.nsw.gov.au

Email: contact@workcover.nsw.gov.au

Phone: **13 10 50**

Australian Capital Territory

WorkSafe ACT

Website: www.worksafe.act.gov.au

Email: worksafe@act.gov.au

Phone: **02 6207 3000**

Commonwealth

Comcare

Website: www.comcare.gov.au

Email: General.Enquiries@comcare.gov.au

Phone: **1300 366 979**

Fair Work Commission

From 1 January 2014, a worker, for example an employee, contractor, apprentice or volunteer who reasonably believes they have been bullied at work may apply to the Fair Work Commission for an order to stop the workplace bullying. Such workers should contact the Fair Work Commission to find out if they are eligible to apply for an order.

The Fair Work Commission will only make an order if they are satisfied that the worker has been bullied at work by an individual or a group of individuals and there is a risk that the worker will continue to be bullied at work.

The Fair Work Commission will take into account:

- Internal procedures available to resolve grievances and disputes at the workers' workplace.
- Final or interim outcomes arising from an investigation undertaken by the worker's employer or other body, and
- Any other matters the Fair Work Commission considers relevant.

Orders could be based on behaviour such as threats made outside the workplace, if those threats result in the worker being bullied at work, for example threats made by email or telephone.

The power of the Fair Work Commission to grant an order is limited to preventing the worker from being bullied at work. The Fair Work Commission cannot make orders requiring payment of money. The focus is on resolving the matter and enabling normal working relationships to resume.

Further information on the Fair Work Act amendments and the role of the Fair Work Commission is located at <http://www.fwc.gov.au>.

Fair Work Commission Offices

Australian Capital Territory

Telephone: **(02) 6209 2400**

Out of hours emergency:
0408 447 112

Email: canberra@fwc.gov.au

Sydney

Telephone: **(02) 8374 6666**

Out of hours emergency:
0419 318 011

Email: sydney@fwc.gov.au

Other support services

Lifeline **13 11 14**

Beyond Blue **1300 224 636**

This policy is attributed to Safe Work Australia and we abide by their "Guide for Preventing and Responding to Workplace Bullying" November 2013

PROCEDURE

What can you do?

If you feel you are being bullied and are not comfortable dealing with the problem yourself, or your attempts to do so have not been successful, you should raise the issue either with your supervisor, health and safety representative or management within the organisation. If you are a member of the union you may also raise any issues with your delegate.

If you witness unreasonable behaviour, you should bring the matter to the attention of management as a matter of urgency.

How we will respond

If workplace bullying or unreasonable behaviour is reported or observed, we will take the following steps:

1. The responsible supervisor or manager will speak to the parties involved as soon as possible, gather information and seek a resolution to satisfactorily address the issue for all parties.
2. If issues cannot be resolved or the unreasonable behaviour is considered to be of a serious nature, an impartial person will be appointed to investigate. Both sides will be able to state their case and relevant information will be collected and considered before a decision is made.
3. All complaints and reports will be treated in the strictest of confidence. Only those people directly involved in the complaint or in resolving it will have access to the information.

There will be no victimisation of the person making the report or helping to resolve it. Complaints made maliciously or in bad faith will result in disciplinary action.

DOCUMENTS

F017 - Incident / Complaint Form (Accident/Near Miss)

F017 - INCIDENT / COMPLAINT FORM
(ACCIDENT/NEAR MISS)

Staff Member:	
Name of person reporting:	
Time & Date of Complaint/Incident:	
Nature of Incident – please give a detailed report of the complaint/incident	
Staff Member signature:	
Name & Contact number of Witness:	
Incident reported to:	
Signature of person receiving report:	Date:
Describe how the issue was resolved and what action was taken:	
Is counselling required?	
Signed: (Managing Director, Co-ordinator)	Date:

The person/employee filing this incident/complaint report will be given a copy after it is signed off on behalf of First Call Nursing.