

# Enhancing ethical awareness in the APS



Australian Government  
Australian Public Service  
Commission

## Respect Summary Guide: Promoting a culture free from harassment and bullying in the APS

### What are harassment and bullying?

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- Workplace harassment entails offensive, belittling or threatening behaviour directed at an individual or group of APS employees. The behaviour is unwelcome, unsolicited, usually unreciprocated and often repeated.
- Bullying is a form of harassment and is also a failure to show respect and courtesy.
- Workplace bullying can also take the form of abusive group behaviour (sometimes called 'mobbing').

#### Workplace harassment and bullying can be:

- intended: where actions were intended to humiliate, offend, intimidate or distress, whether or not the behaviour did in fact have that effect, or
- unintended: which although not intended to humiliate, offend, intimidate or distress, did cause and should reasonably have been expected to cause that effect. In the case of sexual harassment, it only needs to be shown that a reasonable person would anticipate the *possibility* that the behaviour would offend, humiliate or intimidate.

#### What is not harassment or bullying?

- Legitimate management action is not harassment, nor is it disrespectful or discourteous—even if an action causes offence or distress—provided:
  - it is intended for a proper purpose such as performance feedback, counselling or correcting unacceptable workplace behaviour, and
  - it is undertaken in a reasonable way and with respect and courtesy.

#### How and when can workplace harassment and bullying occur?

- Between employees at the same or different classifications, of the same or opposite gender, in the same or different work area or agency
- Between employees and contractors or labour hire staff
- During work-organised events or possibly even outside work hours

- While off-site—for example, at external meetings, on regional or interstate visits, or on overseas postings.

## How do you recognise harassment and bullying?

### Harassment and bullying can be overt:

- assaults, intimidating or aggressive body language
- verbal abuse, including offensive language or derogatory remarks about another's lifestyle choices, physical or mental abilities, or background (e.g. race, ethnicity, social status)
- unwelcome sexual advances or requests for sexual favours (in person, by email or online, by phone or by text message)
- behaviour or language that threatens, frightens, humiliates or degrades, such as shouting and screaming, tone of voice, sarcasm and insults (whether face-to-face, or in email or graffiti)
- 'initiations' or pranks
- interfering with a person's personal effects, work space or equipment
- inappropriate and unfair application of work policies and rules—for example, performance management or access to leave.

### Harassment and bullying can also be more subtle:

- ostracism—e.g. physical or social isolation, exclusion from work-related activities, not acknowledging or responding to an individual's presence or comments, leaving the room when an individual enters
- undermining—e.g. persistent and baseless criticism, unwarranted removal of responsibility, ridicule, taunts, spreading gossip and rumours (either verbally or by email), including inappropriate remarks in emails about a person sent to and/or copied to others, belittling or derogatory remarks or actions that diminish a person's dignity (e.g. eye-rolling responses)
- sabotage—e.g. giving meaningless tasks, confusing and/or contradictory instructions, inappropriately and frequently changing targets and work deadlines, unnecessary disruptions, deliberately withholding important information, deliberately failing to complete tasks or missing deadlines, insisting on petty work requirements.

## How do you deal with incidents of workplace harassment and bullying?

### Framework for managing workplace behaviour

#### Agency policy on appropriate workplace behaviour

- Incorporate commitment to the APS Values and Code of Conduct in key corporate documents (for example, chief executive instructions, people management policies, collective agreements or other workplace agreements).

- Develop policies and/or guidelines governing behaviour in specific contexts (for example, appropriate and reasonable use of email and internet facilities, conduct while representing the agency, expected standards of behaviour in dealing with work colleagues and others).
- Articulate potential consequences if these policies/guidelines are not followed.

## Performance management

- Integrate expectations of appropriate behaviour and adherence to the APS Values and Code of Conduct into performance agreements and reviews.
- Consider 360° feedback (particularly for managers).

## Informal processes to resolve issues in the workplace should be used:

- If it is a single incident
- If it appears the behaviour is unintentional
- If it appears that it can be resolved within the work area
- If the person who raised the issue agrees to an informal process.

## Formal processes are required where:

- Informal processes have failed and it is unlikely that an informal process will resolve the issue
- The behaviour is serious or longstanding
- There is significant disagreement about what has occurred and what should happen.

## Processes to be fair and documented

### Principles for managing workplace behaviour

- Make sure processes are fair (i.e. procedural fairness)
  - people against whom an adverse decision may be made must be informed of any allegations against them in as much detail as possible
  - wherever possible people must be provided with an opportunity to put their case and to hear the case against them
  - where a decision has to be made between competing interests, all parties to a matter must be heard and all arguments considered
  - no person judges their own case or a case in which they have a direct interest
  - decision-makers must act, and be seen to act, fairly and without bias
- Procedural fairness is extremely important when investigating a suspected breach of the Code of Conduct
- Standard of proof for determining whether a breach of the Code of Conduct has occurred is on the balance of probabilities

## Keep records

- Proper records of every complaint and any action taken must be maintained in the event that the complaint leads to further processes or misconduct action. The record must include, at a minimum:
  - a summary of the complaint
  - the finding
  - action taken as a result of the finding.
- Records of complaints and investigations (and files containing such records) should be treated confidentially; information should be accessed only on a 'need to know' basis.
- Records should be consistent with the *Archives Act 1983* and the *Privacy Act 1988*.

## Do workplace harassment and bullying matter?

Our leaders need to foster a positive work environment where all public servants treat each other and the community with respect, and where harassment and bullying are considered unacceptable. The public service should be a good place to work for everyone. We all have a responsibility for making sure this happens.

## Why should you focus on it?

- The culture of an organisation can either lift agency performance or inhibit the achievement of outcomes and the demonstration of appropriate values, attitudes and behaviours.
- Harassment and bullying have a negative impact on performance and, regardless of whether the behaviour occurs across the organisation or in isolated pockets, it often reflects unhealthy organisational and management practices.
- Harassment and bullying often coincide with high levels of absenteeism, poor performance, high turnover and low organisational commitment.

## What is the cost of harassment and bullying to your agency?

- Harassment and bullying are costly and impact on individuals, the team and the organisation
- In 2009-10, around 17% of APS employees surveyed indicated that they had been harassed or bullied in the past 12 months
- Bullying constitutes a significant risk to the health, safety and wellbeing of the individual and can lead to serious psychological injury
- Your organisation's reputation can be damaged through adverse media coverage and your organisation will not be regarded as an 'employer of choice'
- Costs of dealing with complaints and litigation are high—and may include payment of damages

- Direct salary costs, workers' compensation and lost productivity arising from workplace bullying have a significant cost for the Australian Public Service
- Workers' compensation claims for psychological injury are the most expensive type of claim
- In the Commonwealth jurisdiction, workers' compensation claims where harassment or bullying is the cause of the injury make up 45% of all 'mental stress' claims.

## What behaviour is expected in the workplace?

Employers and employees have shared obligations for creating respectful and courteous workplaces. Employers want a productive workforce that manages its performance and achieves results.

### Employees want to work in a place where:

- they know what is expected of them
- the workplace is safe and they are treated fairly
- their skills and contribution are recognised and valued
- training and development support career progression
- they can work harmoniously with others.

### The *Public Service Act 1999* sets out the following Values and Code of Conduct relevant to conduct in the workplace:

- 'the APS provides a workplace that is free from discrimination and recognises and utilises the diversity of the Australian community it serves' (s. 10(1)(c))
- 'the APS provides a fair, flexible, safe and rewarding workplace' (s. 10(1)(j))
- agency heads have a specific obligation under the Act to uphold and promote the APS Values (s. 12)
- Senior Executive Service employees have a specific obligation under the Act to promote the APS Values and uphold the Code of Conduct (s. 35(2)(c))
- 'an APS employee, when acting in the course of APS employment, must treat everyone with respect and courtesy, and without harassment' (s. 13(3))
- 'an APS employee must at all times behave in a way that upholds the APS Values and the integrity and good reputation of the APS' (s. 13(11)).

### The following occupational health and safety and compensation legislation imposes obligations on APS agencies as employers:

- The duty of care of the Australian Government to its employees in the workplace (*Occupational Health and Safety Act 1991*, ss. 16 (1) and (2))
- Responsibilities of agency heads in relation to employees who are suffering from injuries 'arising out of or in the course of employment' (*Safety, Rehabilitation and Compensation Act 1988*, s. 6).

## The following anti-discrimination legislation also applies:

- Age Discrimination Act 2004
- Disability Discrimination Act 1992
- Human Rights and Equal Opportunity Commission Act 1986
- Racial Discrimination Act 1975
- Sex Discrimination Act 1984

## What strategies can you use to create a positive work environment, free from harassment and bullying?

Any strategy designed to address harassment and bullying is more likely to be effective if it includes a focus on developing:

- a highly capable cadre of senior executives who model appropriate behaviour
- a culture of engagement and performance, and
- a set of integrated people management practices.

Dealing with harassment and bullying is not easy and there is no quick fix or 'magic' solution, but it must be addressed.

## Organisational commitment

- Demonstrate a commitment to a positive workplace culture at the agency head and senior executive levels through articulating and modelling appropriate behaviour
- Release a policy on the agency's commitment to the APS Values and Code of Conduct, and to promoting a positive workplace culture free from harassment and bullying, that:
  - includes a statement that harassment and bullying is a breach of the APS Values and Code of Conduct and is not tolerated
  - sets out the responsibilities of agency heads, senior executives, other managers and employees to create a workplace culture in which harassment and bullying behaviour are unacceptable
  - provides a clear view of, and strategies to promote, appropriate standards of workplace behaviour for employees at all levels
  - defines harassment and bullying, gives examples of unacceptable behaviour and outlines the consequences of a breach of the policy
- Set up networks of occupational health and safety, harassment and/or diversity contact officers
- Ensure all employees have easy access to the agency's policy on harassment and bullying (for example, on the intranet) and regularly remind employees of their obligations
- Provide information on:

- processes for employees to report or raise issues or complaints (formal and informal processes and external avenues should be included)
- where to go for advice and/or support (for example, employee assistance or counselling services, agency contact officers, nominated human resources position)
- relevant internal and external review mechanisms.

## **Creating a positive work environment**

### **Encourage a positive workplace culture in teams**

- Maintain open communications
- Ensure all team members are aware of, and conform with, the agency's expectations of appropriate behaviour
- Prioritise tasks, share work fairly, and set clear and realistic deadlines
- Ensure staff know their role, and have the skills, capabilities, information and training they need to perform to their full potential
- Provide constructive performance guidance, including positive feedback.

### **Monitor organisational health**

- Indicators of likely workplace issues can be found by analysing data collected through:
  - agency input to surveys, such as for annual State of the Service Reports
  - staff retention/turnover rates and unusual patterns of internal movements
  - rates of sick leave and other unscheduled absences
  - information from exit surveys, with specific questions about experiencing or witnessing harassment and bullying
  - the number, type and cost of compensation claims
  - available reports from counselling or employee assistance programme providers.