

Good practice, good business



Australian
Human Rights
Commission

everyone, everywhere, everyday

Eliminating discrimination and harassment from your workplace

WHAT IS DISCRIMINATION AND HARASSMENT?

What is unlawful discrimination?

Under federal and state legislation, unlawful discrimination occurs when someone, or a group of people, is treated less favourably than another person or group because of their race, colour, national or ethnic origin; sex, pregnancy or marital status; age; disability; religion; sexual preference; trade union activity; or some other characteristics specified under anti-discrimination or human rights legislation.

Workplace discrimination can occur in:

- recruiting and selecting staff
- terms, conditions and benefits offered as part of employment
- who receives training and what sort of training is offered
- who is considered and selected for transfer, promotion, retrenchment or dismissal.

What is unlawful harassment?

Under federal and state legislation, unlawful harassment occurs when someone is made to feel intimidated, insulted or humiliated because of their race, colour, national or ethnic origin; sex; disability; sexual preference; or some other characteristic specified under anti-discrimination or human rights legislation. It can also happen if someone is working in a 'hostile' – or intimidating – environment.

Harassment can include behaviour such as:

- telling insulting jokes about particular racial groups
- sending explicit or sexually suggestive emails
- displaying offensive or pornographic posters or screen savers

- making derogatory comments or taunts about someone's race or religion
- asking intrusive questions about someone's personal life, including their sex life.

For more specific information about what may constitute unlawful discrimination or harassment see the *fact sheets on discrimination and harassment based on age, disability, race and sex*.

The nature of harassment/discrimination

Harassing behaviour can range from serious to less serious levels, however one-off incidents can still constitute harassment. Also, where continued, such behaviour can undermine the standard of conduct within a work area, which may erode the well being of the individual or group being targeted and lead to lower overall staff performance.

The absence of complaints is not necessarily an indication that no harassment or discrimination is occurring. The person subjected to harassing or discriminating behaviour does not always complain. This is not necessarily because the act is trivial, but because the person may lack the confidence to speak up on their own behalf or feel too intimidated or embarrassed to complain.

Hostile working environment

Employers also need to be aware of their responsibilities to ensure that the working environment or workplace culture is not sexually or racially 'hostile'. Examples of a potentially hostile working environment are where pornographic materials are displayed and where crude conversations, innuendo or offensive jokes are part of the accepted culture. A person has the right to complain about the

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effects of a sexually or racially hostile working environment, even if the conduct in question was not specifically targeted at them.

What harassment/discrimination is not

Workplace harassment or discrimination must not be confused with legitimate comment and advice (including relevant negative comment or feedback) from managers and supervisors on the work performance or work related behaviour of an individual or group.

The process of providing feedback to staff during a formal performance appraisal, or counselling staff regarding their work performance, will not always be free of stress. Managers should manage these processes with sensitivity, but they should not avoid their responsibility to provide full and frank feedback to staff.

What is workplace bullying?

One definition of workplace bullying is “the repeated less favourable treatment of a person by another or others in the workplace, which may be considered unreasonable and inappropriate workplace practice. It includes behaviour that intimidates, offends, degrades or humiliates a worker”. (Source ACTUQ/QCCI/Qld Govt Dept of Workplace Health and Safety)

Bullies usually utilise power attributed to their status, skills or position in the workplace, and both men and women can be the targets and/or the perpetrators. Workplace bullying can occur between a worker and a manager or supervisor, or between co-workers.

Bullying behaviour can range from very obvious verbal or physical assault to very subtle psychological abuse. This behaviour may include:

- physical or verbal abuse
- yelling, screaming or offensive language

- excluding or isolating employees
- psychological harassment
- intimidation
- assigning meaningless tasks unrelated to the job
- giving employees impossible jobs
- deliberately changed work rosters to inconvenience particular employees
- undermining work performance by deliberately withholding information vital for effective work performance

For more specific information see the fact sheet on *Workplace bullying* in this section.

This fact sheet is part of *good practice, good business* – information and resources for employers to address discrimination and harassment in the workplace.

Available online at www.humanrights.gov.au/employers/

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