

IGSA Discrimination, Harassment and Bullying Policy

Updated November 2020

In our endeavour to provide an environment of caring and safety, where learning, personal growth and development of a positive self image are maximised, the IGSA organisation expects all employees and contractors to treat each other and the people they come into contact with as representatives of IGSA with respect and courtesy.

Discrimination, Harassment and Bullying Policy

IGSA endeavours to provide a safe and caring environment for all members of the IGSA community.

All IGSA workers have the legal obligation not to discriminate against or harass for any unlawful reason, or bully for any reason any employee, contractor or other person they come into contact with while performing work for IGSA.

The purpose of this policy is to make you aware of:

- what 'unlawful discrimination', 'unlawful harassment' and 'bullying' mean;
- your obligations in relation to unlawful discrimination, harassment and bullying;
- the procedures IGSA has in place to deal with workplace complaints relating to discrimination, harassment and bullying; and
- who you can talk to at IGSA if you wish to make a complaint.

This policy applies to all employees and contractors (**Workers**) and every member of the IGSA community is required to support this policy.

Unlawful Discrimination

Unlawful discrimination means treating one person or group less favourably than another, or causing them disadvantage, in certain circumstances.

Australia has laws regarding discrimination at the Federal level such as the *Age Discrimination Act 2004* (Cth), *Disability Discrimination Act 1992* (Cth), *Racial Discrimination Act 1975* (Cth) and the *Sex Discrimination Act 1984* (Cth), *NSW Anti-Discrimination Act 1977* and *NSW Work, Health and Safety Regulation 2017*.

These laws make discrimination unlawful on a variety of grounds, including a person's:

- sex, pregnancy or breastfeeding;
- marital or relationship status;
- sexual orientation, transgender status, gender identity, intersex status;
- race, colour, descent, nationality, national origin, ethnicity, ethno-religious origin or social origin;
- religious belief or activity;
- political belief or activity;
- family responsibilities or responsibilities as a carer;

- disability or impairment;
- age;
- service in the voluntary defence forces; or
- others, depending on the state or territory in which you work.

Whether it is unlawful to discriminate against a person for one of these reasons will depend on the particular circumstances and the legislation which applies.

How can unlawful discrimination occur?

Discrimination can occur in the recruitment process, during the course of employment or upon termination of employment. Discrimination can also occur in the provision of goods and services. Staff should not discriminate against Workers or other persons you interact with in your role with IGSA.

Discrimination can be direct or indirect.

Direct discrimination occurs where someone is treated less favourably because of their sex, age or race etc. An example of direct discrimination is when an employee misses out on an internal promotion because they are considered too old for the job.

Indirect discrimination occurs where everyone is treated on the same terms according to a rule, policy or directive but which has the effect of being less favourable to people of a particular sex, age, race, and which is not reasonable in all the circumstances. An example of indirect discrimination would be a security company that has height and weight requirements for its employees – this may exclude a large proportion of women - and this requirement is not reasonable.

Victimisation as defined by the Anti-Discrimination Board of NSW, victimisation is when someone is hassled or victimised or treated unfairly because they make a discrimination complaint, even if it is not a formal complaint, or support someone who has made one.

There are exceptions from anti-discrimination law which may apply in some situations – for example, because of the inherent requirements of a particular job.

Bullying may also occur at the same time as unlawful discrimination and may also be a breach of work health and safety laws.

Unlawful Harassment

Unlawful harassment is a type of unlawful discrimination.

In general, unlawful harassment is any form of conduct or behaviour which affects a person that:

- is unwelcome (not wanted) or uninvited (not asked for); and
- is based on one of the unlawful grounds; and
- is behaviour that a reasonable person would have anticipated would humiliate, offend or intimidate the person exposed to the conduct.

In some cases a single action or incident can create unlawful harassment. In other cases there may need to be a persistent pattern of behaviour before unlawful harassment has occurred.

Harassment can take many forms including, but not limited to:

Physical: Fighting, pushing, shoving, gestures, invasion, of personal space, touching or brushing against another.

Verbal: Name calling, offensive language, unwelcome comments, intrusive questions about someone’s private life, unwanted invitations, “nuisance” telephone calls, spreading malicious rumours, mimicking someone’s accent or habits.

Visual: Offensive gestures, notes, pictures, e-mails or graffiti.

Victimisation: Stand-over tactics, extortion, damage to others’ possessions, threats to “get” people, repeated exclusion.

Harassment might not be unlawful, if it is not based on one of the unlawful grounds, although it may amount to bullying and be a breach of work health and safety laws (see below). In any event, IGSA expects its Workers to treat each other and other people with whom they come into contact as representatives of IGSA with respect and courtesy.

What is unlawful sexual harassment?

Unlawful sexual harassment occurs where a person:

- makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to another person; or
- engages in other unwelcome conduct of a sexual nature in relation to the other person,

in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

Unlawful sexual harassment includes, but is not limited to:

- pressure or demands for dates or sexual favours;
- unnecessary familiarity - for example, deliberately brushing against a person or constantly staring at a person;
- unwanted physical contact - for example, touching or fondling;
- sexual jokes or innuendo;
- offensive telephone calls;
- offensive sexual gestures;
- unwelcome comments or questions about a person's sex life;
- display or circulation of sexual material, including magazines, posters or pictures and email messages (including in electronic format);
- sending email or text messages which contain sexual content or tone; or
- sexual assault.

It is important to understand that some of these forms of sexual harassment are also criminal behaviour and may be treated as a criminal offence. These include:

- sexual assault;
- physically molesting a person;
- indecent exposure; and
- obscene phone calls or emails/letters.

What is bullying?

Workplace bullying is repeated, unreasonable behaviour directed toward a Worker, or group of Workers, that creates a risk to health and safety.

Unreasonable behaviour means behaviour that a reasonable person having considered the circumstances would see as unreasonable, including behaviour which is victimising, humiliating, intimidating or threatening.

A single incident of unreasonable behaviour is not considered to be workplace bullying.

Bullying in our workplace is unacceptable and will not be tolerated.

Bullying may also occur at the same time as unlawful discrimination or harassment.

The following types of behaviour, whether intentional or unintentional, may be considered to be workplace bullying if they are repeated, unreasonable and create a risk to health and safety:

- abusive, insulting or offensive language or comments;

- unjustified criticism or complaints;
- withholding information that is vital for effective work performance intentionally setting unreasonable timelines or constantly changing deadlines;
- intentionally setting tasks that are unreasonably below or above a person's skill level;
- denying access to information, supervision, consultation or resources to the detriment of the worker;
- changing work arrangements such as rosters and leave to deliberately inconvenience a particular Worker or Workers;
- deliberately excluding someone from work activities; and
- spreading misinformation or malicious rumours.

Other types of behaviour may also constitute bullying.

Bullying can be carried out in a variety of ways, including through email or text messaging, internet chat rooms, instant messaging or other social media channels. It can be directed at a single Worker or a group of Workers and be carried out by one or more person.

Reasonable management action carried out lawfully and in a reasonable manner is not bullying. For example, it is reasonable for IGSA managers and supervisors to allocate work and to give feedback on a Worker's performance.

In addition, differences of opinion and disagreements are not considered workplace bullying.

People can have disagreements in the workplace without engaging in repeated, unreasonable behaviour that creates a risk to health and safety.

What Are Your Obligations?

Unlawful discrimination and harassment

All IGSA Workers have the legal obligation not to discriminate against or harass for any unlawful reason any employee, contractor, supplier, client or customer.

You must always consider how your behaviour will be viewed by the person or people you are dealing with. You might unlawfully discriminate against or harass someone even if you do not mean to do or say anything offensive. It is not a legally acceptable defence to say that you did not mean or intend to discriminate against or humiliate, offend or intimidate somebody else.

It is sometimes difficult to know whether someone will find your behaviour acceptable. What is offensive to one person may not be offensive to another. You should be careful not to risk being misunderstood and, as a result, becoming the subject of a complaint.

You will be personally liable for your own actions if you engage in unlawful discrimination or unlawful harassment. An employer may be required to share liability for your actions because of the legal principle relating to vicarious liability, although generally not where the employer has made you aware of your own obligations.

Bullying

All IGSA Workers have a statutory duty to take reasonable care that their acts do not adversely affect the health and safety of others, including other Workers. This means all Workers at IGSA have the legal obligation not to bully any other person. Workers can be prosecuted for breach of this statutory duty and fines can be imposed (or in serious cases, a Worker could be imprisoned).

Victimisation

You must not victimise a person because they have made or propose to make a complaint about unlawful discrimination, unlawful harassment or bullying or because they have provided information in relation to a complaint. Victimisation means subjecting a person to a detriment, for example, ostracising an employee.

What can you do if you feel you are being unlawfully discriminated against, harassed or bullied in the workplace?

If you feel that you are being discriminated against, harassed or bullied in the workplace, then we encourage you to take action which may resolve the problem, such as:

- do not ignore circumstances where you feel you are being discriminated against, harassed or bullied, thinking it will go away. Ignoring the behaviour could be taken as tacit approval by the person engaging in the conduct;
- where you feel comfortable ask the person to stop, or make it clear that you find the behaviour offensive or unwelcome or victimising, intimidating, humiliating or threatening. Maybe the alleged discriminator / harasser or bully is not aware that his/her behaviour is impacting you in this way and will stop once they are told. It may be useful to speak with your manager in the first instance to seek guidance on how to do this; or
- raise the issue with the IGSA Chair, **as soon as possible** after the incident(s) have occurred.

Early intervention can be an effective way of stopping the behaviour before it escalates.

If you feel that you are being victimised because you have made or propose to make a complaint of unlawful discrimination, harassment or bullying or because you have provided information in relation to a complaint you should raise the issue as soon as possible with the IGSA Chair.

If your issue is about the IGSA Chair then you should raise it with the IGSA Executive Officer.

Although you may feel the need to tell a trusted friend or work colleague about the matter, you should be careful. Accusations of discrimination, harassment and bullying can harm the reputation of those involved and could lead to legal action for defamation. Do not allow rumours to spread.

Other helpful contacts

If you believe you are being discriminated against, harassed or bullied, someone has alleged you are discriminating against, harassing or bullying them or something else at work is distressing you, you may also seek counselling and assistance using the IGSA's Employee Assistance Program. More information about this Program can be obtained by calling the IGSA Executive Officer on 9888 9477.

There are also a number of external organisations that may be able to offer you assistance:

Lifeline	13 11 14
Beyond Blue	1300 224 636

Bullying complaints may also be referred to external bodies, such as the applicable State based work, health and safety regulator – although IGSA encourages Workers to try to resolve complaints internally by using this Policy.

What will IGSA do if you make a complaint under this Policy?

All complaints will be treated seriously and generally in accordance with this Policy. As each complaint will differ, IGSA will determine the most appropriate method of dealing with the complaint. This may vary depending on the nature of the specific complaint and a number of other factors. For example, following receipt of a complaint, IGSA may take the following steps:

- determine the best method of handling the complaint (which may include a number of possibilities including informal or facilitated discussions, mediation or an internal or external investigation);
- advise you of the likely steps that will be undertaken by IGSA in relation to the complaint (including anticipated time frames);
- advise the person(s) who the complaint is about of the existence of the complaint, the nature of the complaint and seek their response;
- advise both you and the person(s) that the complaint is about of the confidentiality obligations in relation to the complaint;

- collect any additional information IGSA considers necessary to properly review the complaint;
- advise both you and the person(s) that the complaint is about, of IGSA's response to the complaint and, if appropriate, any proposed action to be taken;
- advise you and the person(s) that the complaint is about, who will be making the inquiries on behalf of IGSA and who will determine the outcome of the inquiries; and
- in some cases, appointing an external party to make inquiries in relation to, or to investigate, the complaint.

As far as reasonably practicable, investigations of complaints will be conducted confidentially. Generally, IGSA will only discuss the complaint with third parties when IGSA determines that this is appropriate.

IGSA will take whatever action it considers appropriate if there has been unlawful discrimination, harassment or bullying, including disciplining or dismissing offenders. If the alleged unlawful discrimination, harassment or bullying involves violence, for example, physical assault or the threat of physical assault, IGSA may report the matter to the police.

You should also be aware that if the complaint is vexatious or if you lie about or exaggerate a complaint, or don't provide all facts relevant to the complaint at the outset, or don't co-operate with the process IGSA adopts to address the complaint, IGSA will view this as a very serious matter, and you may be disciplined or dismissed.

General

This policy summarises some of the rights and obligations which are created by the legislation. The policy is not intended to go beyond the legislation. This policy is not a term of any contract, including any contract of employment. This policy may be varied from time to time.