

## **APPENDIX A**

### **Discrimination and Bullying Policy**

**Effective date** May 2014

#### **1. Purpose**

The purpose of this policy is to reinforce Digby Morgan Pty Ltd, trading as HR Partners – a Randstad company (**HR Partners**) commitment to provide a work environment that is free from discrimination and bullying (termed **Unacceptable Behaviour**) and thereby promote equal opportunities, and ensure that people are treated with dignity and respect, in the workplace.

This policy provides guidance on how to identify report and help prevent Unacceptable Behaviour.

#### **2. Applicability**

##### Who does this policy apply to?

This policy applies to individuals working with HR Partners including, but not limited to, employees, agents, volunteers and contractors (the **workers**).

This policy applies to the treatment of all persons associated with the workplace including our candidates, employees, agents, contractors, customers, clients and visitors (persons).

##### When does this policy apply?

This policy may apply to, but is not limited to, behaviours and conduct that occur:

- a) in the workplace (even outside of normal working hours);
- b) during all work related activities (for example, when dealing with a supplier or contractor);
- c) at work related social events, even if they occur outside of work hours or off-site (eg, work lunches, conferences, Christmas parties and client functions); and
- d) during any activity where there is a relevant connection to the workplace or which has a significant effect on the workplace (eg, posting a message about an employee or customer on Facebook or another social networking site).

#### **3. Discrimination**

HR Partners aspires to maintain a workplace that promotes equal opportunity for all persons, and through reasonable management action will endeavour to prevent unlawful discrimination from occurring in the workplace.

All forms of unlawful discrimination are unacceptable and depending on the severity can lead to disciplinary action including termination of employment.

What is unlawful discrimination?

Unlawful discrimination may occur when a person is treated less favourably than another person because of that person’s individual characteristics or attributes, or because that person belongs to a particular group of people, and includes:

- a) **Direct Discrimination:** a policy or practice that directly adversely affects or excludes a person or group from a benefit on the basis of personal attributes or characteristics.
- b) **Indirect Discrimination:** a policy or practice that appears to be neutral, or the same for everyone, but which, in operation, results in a particular person or group being adversely affected or excluded from a benefit, which policy or practice cannot be objectively justified.

Age	Lawful sexual activity
Breast feeding	Marital status
Disability/impairment	Physical features
Employment activity	Political beliefs/activities
Family responsibilities/status as a Parent or a Carer	Pregnancy
Gender identity	Race
Industrial activity	Religious belief or activity
Irrelevant criminal record	Sex
Sexual preference/orientation	Personal association with someone who has or is assumed to have one of the attributes.

Examples of unlawful discrimination include:

- a) an employee on maternity leave with an expectation of returning to work in a similar or comparable position, not being offered such a position on her return;
- b) a pregnant employee being pressured to resign prior to taking any maternity leave;
- c) making derogatory comments about a person based on their gender; and/or
- d) making a decision not to hire an employee on the basis of the person's ethnicity.

## Sexual harassment

Sexual harassment is where:

- a) a person makes an unwelcome sexual advance, or an unwelcome request for sexual favours to another person; or
- b) a person engages in unwelcome conduct of a sexual nature in regard to another person, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated.

Certain conduct that may be tolerated socially could constitute sexual harassment in the workplace when it is unwelcome. At the same time, sexual harassment must not be confused with conduct that has the consent of all involved.

The following examples may constitute sexual harassment when they are offensive to persons, regardless of any innocent intent on the part of the offender:

- a) flirting, advances and/or propositions of a sexual nature;
- b) making remarks, insults, or jokes of a sexual nature which are demeaning to a person, including regarding their body or clothing, national origin, culture, race, age, religion;
- c) offensive touching, such as patting, pinching, hugging or repeated brushing against a person's body and/or suggestions that submission to or rejection of sexual advances will affect decisions regarding an employee's work assignments, status, salary, benefits or other terms or conditions of employment;
- d) the public display of pornography, including on the internet;
- e) intrusive enquiries into another employee's private life, their sexuality or physical appearance;
- f) persistent requests from a colleague to go for a drink where such requests have been consistently declined;
- g) persistent staring or leering at a person or parts of their body;
- h) sexually offensive telephone calls;
- i) requests for, or expectations of, sexual activity under threat, or in exchange for favours or promises of preferential treatment;
- j) public displays of nudity - commonly referred to as flashing; and
- k) sexual violence at the most extreme, sexual assault and forced attempts at sexual intercourse.

## **4. Bullying**

What is bullying?

Workplace bullying is repeated, unreasonable behavior directed towards a person, or a group of persons, that causes a risk to health and safety. For the purposes of this policy, the following are defined:

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

**Unreasonable behaviour** means behaviour that a reasonable person, having regard to the circumstances, may see as unreasonable, for example because the behaviour is victimising, humiliating, undermining or threatening.

**Risk to health and safety.** The bullying behaviour must be repeated, unreasonable and cause a risk to health and safety. 'Health' includes both physical and psychological health.

Bullying may be direct or indirect. Safe Work Australia has provided the following examples of each:

Direct bullying	Indirect bullying
abusive, insulting or offensive language	unreasonably overloading a person with work or not providing enough work
spreading misinformation or malicious rumours	setting timelines that are difficult to achieve or constantly changing deadlines
behaviour or language that frightens, humiliates, belittles or degrades, including over criticising, or criticism that is delivered with yelling or screaming	setting tasks that are unreasonably below or beyond a person's skill level
displaying offensive	material deliberately excluding, isolating or marginalising a person from normal work activities
inappropriate comments about a person's appearance, lifestyle, their family or sexual preferences	withholding information that is vital for effective work performance
teasing or regularly making someone the brunt of pranks or practical jokes	deliberately denying access to information, consultation or resources
interfering with a person's personal property or work equipment	deliberately changing work arrangements, such as rosters and leave, to inconvenience a particular worker or workers

harmful or offensive initiation practices	unfair treatment in relation to accessing workplace entitlements such as leave or training
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Workplace bullying may breach occupational health and safety legislation and as such may expose HR Partners and workers to investigation and prosecution.

In serious cases, workplace bullying may also amount to a criminal offence in certain states of Australia.

### What is not bullying?

Many things that happen at work are generally not considered to be bullying, although some experiences can be uncomfortable for those involved. Differences of opinion, performance management, conflicts and personality clashes can happen in any workplace, but do not necessarily result in bullying.

Reasonable management of workers carried out in a reasonable manner is not bullying. Managers have the right, and should, manage their staff. This includes directing the way in which work is performed, undertaking performance reviews and providing feedback (even if negative) and disciplining and counselling staff. According to Safe Work Australia, examples of reasonable management action include:

- a) setting reasonable performance goals, standards and deadlines in consultation with workers and after considering their respective skills and experience;
- b) allocating work to a worker in a transparent way;
- c) fairly rostering and allocating working hours;
- d) transferring a worker for legitimate and explained operational reasons;
- e) deciding not to select a worker for promotion, following a fair and documented process;
- f) informing a worker about unsatisfactory work performance in a constructive way and in accordance with any workplace policies or agreements;
- g) informing a worker about inappropriate behaviour in an objective and confidential way;
- h) implementing organisational changes or restructuring; and
- i) performance management processes.

## **5. Victimisation**

Victimisation is treating a person unfairly because that person, or someone they associate with, has made or intends to make a complaint in relation to Unacceptable Behaviour, or takes related action.

Victimisation is unlawful and no action should be taken against anyone for making or helping someone make a genuine complaint.

Disciplinary action up to and including termination of employment, may be taken against any person who victimises or retaliates against a person in these circumstances.

## **6. What are your responsibilities?**

### Managers/EEO Contact Officers

All Managers will also perform the function of an EEO Contact Officer.

Managers/EEO Contact Officers have responsibilities to:

- a) comply with and promote this policy, and act on any Unacceptable Behaviour in breach of this policy;
- b) provide guidance and information about options available to staff when approached; and
- c) treat all complaints seriously and take prompt steps to resolve any complaints made under this policy.

### Workers

All HR Partners workers have a responsibility to treat persons present at, or associated with, the workplace, with dignity and respect, and understand and comply with this policy, so that the working environment is free from Unacceptable Behaviour.

## **What if you have a complaint?**

If you feel you have been subjected to any form of Unacceptable Behaviour, you should not ignore it.

HR Partners has a Grievance Resolution Procedure for dealing with these issues, and encourages those affected to raise their concerns.