

Purpose

Programmed/PERSOLKELLY is committed to a work environment that is free from all forms of bullying, harassment, and sexual harassment, where all employees are treated with dignity, courtesy and respect and can work without distress or interference caused by bullying and harassment.

We recognise the harmful effects bullying and harassment can have on individuals and that these behaviours can cause the loss of trained and talented employees, reduce productivity and morale, and create legal risks. At its most serious level, harassing behaviour may constitute a criminal offence.

Accordingly, the **purpose** of this policy is to *reinforce our commitment to a preventative approach through recognising our positive duty obligations and to the creation and maintenance of a diverse workplace where equality, respect, and consideration for one another are the norm.*

Scope

This policy applies to **all employees** (including full time, part time, casual, fixed term contract and permanent) within Programmed/PERSOLKELLY, as well as **subcontractors, clients, and visitors**.

This policy applies while at work, at work-related or work-sponsored functions, training, conferences, events; development activities at the request of Programmed/PERSOLKELLY, travelling on work-related business and at Client and Supplier premises.

Definitions

A Bystander is someone who sees or knows about bullying, harassment, discrimination, or victimisation that is happening or has happened to someone else.

Complaint is an allegation about an event or action that is perceived to be unfair, unreasonable, or unlawful.

Employee is any person employed by Programmed/PERSOLKELLY to work in a permanent, temporary, casual or contract capacity.

Harassment is treating a person less favourably on the basis of protected attributes such as a person's sex, race, disability or age¹. This can include uninvited, unacceptable, or unwelcome behaviour or conduct of a verbal, physical, social, or psychological nature that any reasonable person would interpret as offensive, humiliating or intimidating.

Positive duty requires organisations and businesses to take 'reasonable and proportionate measures' to address defined aspects.

¹ Australian Human Rights Commission. (2024). Workplace discrimination, harassment and bullying. https://humanrights.gov.au/sites/default/files/GPGB_workplace_discrimination_harassment_bullying_0.pdf

Reasonable management action is management action that is considered reasonable if it is conducted in a lawful, reasonable, and impartial way, considering the circumstances of the matter. Reasonable management action may include, but is not limited to:

- setting reasonable and achievable performance goals, standards, and deadlines
- performance appraisals including ongoing meetings to address underperformance
- investigating alleged misconduct
- disciplining, transferring, redeploying, or retrenching a worker
- deciding not to permit an employee to return to work due to a medical condition.

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

Sex-based harassment involves unwelcome behaviour that is sexist and demeaning in nature, but that is not necessarily sexual. To 'demean' is to debase or degrade another person².

Sex discrimination is when someone is treated unfairly, or is unreasonably disadvantaged, because of their sex, or a characteristic that is associated with people of their sex³.

Sexual harassment is unwelcome sexual conduct which makes a person feel offended, humiliated and/or intimidated where that reaction is reasonable in the circumstances⁴.

Sexual harassment can be physical, spoken or written (*Sex Discrimination Act 1984*). Some forms of sexual harassment including sexual assault, indecent exposure, stalking and obscene communications may constitute a criminal offence.

Unreasonable behaviour means behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating, or threatening⁵.

Upstander is a person who speaks or acts in support of an individual or cause, particularly someone who intervenes on behalf of a person or persons who is, or has been, bullied, harassed, discriminated against, or victimised.

Victimisation means "treating or threatening to treat someone badly or unfairly because they report unlawful behaviours, assert their rights under the law or help someone else to do so" ⁶.

Vilification is a public act which incites, encourages, or urges others to hate, have serious contempt for, or severely ridicule, a person, or group of people because they are (or are thought to be) members of a particular group. Vilification has no justification in "free speech". Racial vilification is unlawful under the *Racial Discrimination Act 1975* and is also prohibited under state/territory laws.

² Australian Human Rights Commission.(2023).Guidelines for Complying with the Positive Duty under the Sex Discrimination Act 1984 (Cth) August 2023, <https://humanrights.gov.au>

³ Australian Human Rights Commission, op.cit.,p.2.

⁴ Australian Human Rights Commission (2024) Sexual Harassment (A Code in Practice) - What is sexual harassment?

⁵ <https://humanrights.gov.au/our-work/projects/sexual-harassment-code-practice-what-sexual-harassment>.

Safe Work Australia,(May 2016) Guide for preventing and responding to workplace bullying.

<https://www.safeworkaustralia.gov.au/system/files/documents/1702/guide-preventing-responding-workplace-bullying.pdf>

⁶ Australian Human Rights Commission, op. cit.,p.2.

Workplace Bullying is repeated and unreasonable behaviour by an individual or group of individuals that is directed towards a worker, or a group of workers, that creates a risk to health and safety⁷. This includes in person or online. Examples of workplace bullying, whether in person or online, intentional, or unintentional, that may be workplace bullying include, but are not limited to the following:

- abusive, insulting, or offensive language or comments
- aggressive and intimidating conduct
- belittling or humiliating comments
- using the internet or social media to harass, bully or intimidate a fellow employee
- practical jokes or initiation
- deliberately excluding someone from work-related activities
- withholding information that is vital for effective work performance
- denying access to information, supervision, consultation, or resources to the detriment of the worker
- setting unreasonable deadlines or constantly changing deadlines
- setting tasks that are unreasonably below or beyond a person's skill level.

A **Workplace Participant** is other visitors at a Programmed/PERSOLKELLY workplace, these include (but not limited to) sub-contractors, volunteers, and visitors.

Policy

At Programmed/PERSOLKELLY we have zero tolerance for all forms of bullying, harassment, and discrimination (in person or online) against our employees by their peers, supervisors, customers, or vendors.

Everyone is responsible. The following principles are adopted:

- All employees are responsible and encouraged to raise complaints, including complaints of workplace bullying, sexual harassment, and unlawful discrimination at the earliest opportunity.
- Allegations of workplace bullying, sexual harassment and unlawful discrimination will be treated seriously, fairly, sensitively and without victimisation. Where possible, issues will be resolved locally and promptly, in line with complaints management policies and procedures. Substantiated allegations will be referred to human resources for appropriate disciplinary action.
- Bystanders who witness workplace bullying, sexual harassment and/or unlawful discrimination (in person or online) are encouraged to speak up and take appropriate action.
- Reasonable management action to address performance or conduct related issues is not considered workplace bullying, if it is carried out in a lawful, reasonable, and impartial way, taking the circumstances of the matter into account.

⁷ Safe Work Australia, (May 2016), op. cit., p.2.

Programmed/PERSOLKELLY believe that **respectful workplaces** should be **accessible to everyone**, and we do this by:

- Endorsing applicable laws, rules, and legislation regarding the promotion of equal opportunity for all persons that prevent discrimination based on prohibited grounds.
- Implementing systems that support all employees being able to work in an environment free of all forms of discrimination and harassment.
- Eliminating any source of discrimination based on factors not related to work performance in all recruitment and employment-related activities where any factor that is not relevant to the individual's ability to perform the job to the Company's satisfaction is discarded.
- Understanding that it is especially important for people in groups that have historically been subjected to unfair treatment in the workplace. Although we do not promise to employ or promote all people in such groups, we do pledge to treat qualified job applicants and employees eligible for promotion fairly. We also pledge to avoid discriminating against them based on conscious or unconscious biases.
- Reinforcing that discrimination and harassment are unacceptable forms of behaviour and will not be tolerated under any circumstances. It does not matter whether someone intends to treat another less favourably or in a discriminative manner, nor does it matter whether the discrimination is direct or indirect.
- Actively seeking to identify and eliminate all discriminatory employment practices, both direct and indirect, and will strive to maintain a workplace free of harassment.

Requirements

All employees, contractors, and other workplace participants

All employees, contractors, agents, and workplace participants have a responsibility to respect the rights of others and not to participate in or encourage any type of bullying, harassment, sexual harassment, sex discrimination, sex-based harassment, vilification, victimisation, or discrimination. As an employee, you have a responsibility to:

- Model appropriate behaviour and treat others with dignity and respect and promote a positive, inclusive, and constructive workplace culture.
- Raise complaints and concerns at the earliest opportunity.
- Comply with the Code of Conduct and all applicable codes, policies, and relevant legislation.
- Ensure any allegations relating to inappropriate conduct are made in good faith and are not vexatious or malicious or designed to impede legitimate management action.
- Provide support to an employee who is being subjected to bullying or harassment if you feel comfortable doing so.
- Cooperate with all complaint management procedures.

Additional requirements for managers and supervisors

All managers and supervisors have additional responsibilities to prevent all forms of bullying and harassment from occurring within their teams and work locations. As a manager or supervisor, you have a responsibility to:

- i. role model respectful behaviour in interactions with workers and third parties such as customers, clients, and patients⁸.
- ii. hold people accountable for their responsibilities for creating a positive workplace culture and how they respond to incidents⁹.
- iii. regularly and clearly communicating expectations about respectful behaviour; what behaviour is unacceptable and the consequences for engaging in it¹⁰.
- iv. hold people accountable for their conduct; encouraging workers to do the same; and ensuring that people who engage in misconduct are not protected, rewarded, or promoted ¹¹.
- v. take action to ensure that online working environments are safe and respectful¹².

Policy Actions

Affirmative actions

Reasonable steps will be taken to make an active effort to improve employment, educational and promotional opportunities, with the intention of removing barriers to equal employment opportunity.

Vicarious liability

All employees, contractors and workplace participants are responsible for their own behaviour and can be held personally legally liable as individuals for behaviour that is unlawful, including discriminatory, harassing, or bullying behaviour. If a court finds that an employee has discriminated against, harassed, vilified, sexually harassed, bullied, or victimised someone else at work, the court may order the individual employee to pay compensation to the other person or otherwise rectify the behaviour.

Response action

Employees have a range of informal and formal options available to address concerns relating to this policy. Where a grievance or complaint of alleged discrimination is brought to our attention, the complaint will be addressed in accordance with the Grievance Resolution Guideline.

⁸Australian Human Rights Commission.(2023), op. cit.,p.2.

⁹ Australian Human Rights Commission.(2023), op. cit.,p.2.

¹⁰ Australian Human Rights Commission.(2023), op. cit.,p.2.

¹¹ Australian Human Rights Commission.(2023), op. cit.,p.2.

¹²Australian Human Rights Commission.(2023), op. cit.,p.2.

Disciplinary action

If a claim of discrimination is substantiated, Programmed/PERSOLKELLY will consider the matter and initiate disciplinary action in line with the circumstances of the individual case, up to and including termination of employment.

Positive Duty

Positive duty imposes a legal obligation to take proactive and meaningful action to prevent relevant unlawful conduct from occurring in the workplace or in connection to work. Taking preventative action will help to create safe, respectful, and inclusive workplaces.

The positive duty applies to a 'person conducting a business or undertaking' and an 'employer'. It requires to take reasonable and proportionate measures to eliminate, as far as possible, relevant unlawful conduct being engaged in:

- By themselves
- By their employees, workers, and agents
- By third parties, towards employees and workers

Programmed/PERSOLKELLY will take 'reasonable and proportionate measures' to eliminate, as far as possible:

- i. discrimination on the ground of sex in a work context¹³
- ii. sexual harassment in connection with work¹⁴
- iii. sex-based harassment in connection with work¹⁵
- iv. conduct that amounts to subjecting a person to a hostile workplace environment on the ground of sex¹⁶
- v. related acts of victimisation¹⁷

¹³ Sex Discrimination Act 1984 (Cth) ss 47C(1), 47C(2)(a)(i)–(iv)

¹⁴ Sex Discrimination Act 1984 (Cth) ss 47C(1), 47C(2)(b), 47C(4)(a)

¹⁵ Sex Discrimination Act 1984 (Cth) ss 47C(1), 47C(2)(b), 47C(4)(a).

¹⁶ Sex Discrimination Act 1984 (Cth) ss 47C(1), 47C(2)(c), 47C(4)(b).

¹⁷ Sex Discrimination Act 1984 (Cth) ss 47C(1), 47C(2)(d), 47C(4)(c)