

A5.3 Anti-Discrimination and Harassment Policy

[Back to Index](#)

See also:

[Anti-Bullying Policy](#)
[Equal Employment Opportunity Policy](#)
[Grievance Policy](#)
[Nominated Contact Officers](#)
[Lodgement of Complaint Form](#)
[Investigation of Complaint Form](#)
[Complaint Outcome Form](#)

Policy

It is the Policy of Study Group that unlawful discrimination and harassment of any kind will not be tolerated. Study Group will provide a workplace free of unlawful discrimination and harassment and uphold relevant State and Federal laws.

All managers have a legal responsibility to act on allegations of harassment brought to their attention or personally witnessed.

Please also refer to:

[Anti-Bullying Policy](#)

[Equal Employment Opportunity Policy](#)

Scope

All Study Group employees have a right to bring any complaints of unlawful discrimination and harassment to the attention of the company for confidential investigation.

Definitions and Interpretations

Discrimination involves unlawful distinctions between individuals or groups, so as to disadvantage some and advantage others.

It is unlawful to discriminate against a person on a number of grounds including:

- Race;
- Family responsibilities;
- Nationality;
- Colour or ethnic origin;
- Gender,
- Marital status;
- Sexual preference,
- Pregnancy;
- Age;
- Political conviction;
- Religion;
- Physical or intellectual disabilities that do not prevent the person doing the job.

Harassment can include behaviour that is found to be intimidating or offensive. It can be on any of the grounds included in anti-discrimination legislation and can be a single or repeated act of offensive behaviour. It may include such behaviours as:

- Intimidating or humiliating telephone calls;
- Name calling or derogatory gestures;
- Offensive jokes;
- Displays of offensive material;
- Messages or images received via email (regardless of whether they are for private use);
- Persistent questioning about a person's private life.

Sexual harassment may include the behaviours listed below where the person acting in such a manner could reasonably be expected to anticipate that such behaviour would offend, humiliate or intimidate the other person:

- Making unwelcome sexual advances;
- Making any request for sexual favours.
- Making remarks or aspersions of a sexual nature relating to the other person;
- Subjecting another person to unwelcome conduct of a sexual nature, including through conversation, action or the display of material the other person may find sexually offensive.

The boundaries of what constitutes harassment may vary from individual to individual. Individuals may also have different boundaries for different relationships.

It is the responsibility of all employees to recognise and respect the boundaries set by others.

Harassment and discrimination are dismissible offences.

Where the term "harassment" is used in the following procedure, it also includes "discrimination".

Objectives

The **primary objective** is to ensure a workplace free of unlawful discrimination and all forms of harassment. The **secondary objective** is to provide a process which ensures that all employees have access to a prompt, fair, consistent and constructive resolution of discrimination or harassment grievances.

Procedure

Procedure for Making a Formal Complaint

Any employee who believes they are experiencing harassment should, if possible, in the first instance approach the person whose behaviour causes concern and ask that the behaviour cease.

If the behaviour does not cease or the employee prefers not to deal directly with the person, an employee who believes they are experiencing harassment should report the circumstances immediately to either their supervisor/manager or to one of the Nominated Contact Officers.

The supervisor/manager or nominated Contact Officer shall discuss the options available to the employee, which may include one or more of the following steps:

Option 1: Employee desires that no further action be taken.

Option 2: Employee meets face to face with person whose behaviour causes concern and asks the behaviour to cease.

Option 3: Employee wishes the matter to be dealt with informally, either directly with the individual, through a team based approach or in some other way. Usually this is done using the appropriate manager/Human Resources.

Option 4: Employee may make a formal complaint through the Company's internal complaints process. See procedure below.

Option 5: Employee may directly approach the Human Rights and Equal Opportunities Commission or local state-based body.

Procedure for Receiving a Formal Complaint

Any supervisor/manager, Human Resources Representative or nominated Contact Officer who is informed formally of alleged harassing behaviour occurring within the organisation must take immediate and appropriate action as noted below.

The Contact Officer's role is limited to the extent that they are to provide confidential support and advice for the complainant but, not to become critically involved in resolution of the complaint. If the complainant prefers the matter to remain confidential, Contact Officers should maintain confidentiality unless the matter is of a serious nature. When serious matters are reported, a Contact Officer may wish to refer the matter to Human Resources. When this occurs, the Contact Officer must advise the complainant of this course of action.

The supervisor/manager must advise their manager, and Human Resources, when a formal complaint has been lodged.

The employee can make a formal record of the complaint providing the following information: (see Lodgement of Complaint Form)

Name of the person (or people) alleged to have harassed the complainant,
 Details of the specific incident and any related incidents, including the date and place the incidents are alleged to have taken place;
 The names of any staff members who witnessed the event or related events;
 The action(s) desired by the complainant. The complainant states what they would like to see happen to resolve the grievance.

A copy of the Lodgement of Complaint Form should be retained by the complainant and forwarded to the complainant's manager or Human Resources for action.

Procedure for Investigating a Complaint

The manager, Human Resources and/or nominated Contact Officer should explain to the complainant the process for investigation of the grievance and confirm that the complainant does want to pursue the complaint.

Depending on the seriousness of the complaint, the manager and/or nominated contact person may ask the Human Resources to appoint an external expert to manage the procedure detailed below. The manager will advise Human Resources to arrange counselling for the complainant if required.

The manager and/or Human Resources will conduct a meeting with the complainant to confirm the details of the grievance and the respondents(s) alleged to have harassed the complainant. This may occur over two meetings, the first with the complainant to confirm the details of the complaint and the desired outcome, the second meeting with the respondent(s) to hear their response to the complaint.

Both meetings should include:

Clarification of the nature of the complaint;
 Provide a definition of what constitutes harassment and clarification of the organisation's policies and procedures in regard to harassment complaints;
 Confirm the confidentiality of the process;
 Keep a written record of the response to allegations;
 Make a note of the names of any witnesses identified by the person or persons (respondents);

The manager and/or Human Resources should next have a discussion with any named witnesses, explaining the confidential nature of the issue and keep a written record of the witnesses' remarks.

The manager and/or Human Resources should next review the information collected to determine:

If there is sufficient evidence that the events and/or any related events actually occurred;
 If the respondent is aware of the company policy on discrimination/harassment;
 To what extent the company may have failed to make its policy known to the respondent or limit their understanding of what constitutes discrimination/harassment;
 To what extent could the respondent – knowing the company policy and definitions of discrimination/harassment – be expected to anticipate their behaviour would offend, humiliate or intimidate the complainant;
 If the complainant or others previously advised the respondent, that the behaviour (or similar behaviour) might constitute discrimination/harassment or that it was unwelcome.

Procedure for Dealing with Outcomes of Investigations

Where it is determined that discriminating or harassing behaviour did take place:

The manager and/or Human Resources will conclude from the extent to which the alleged harasser(s) knowingly or deliberately:

Violated the organisation's policy on harassment; and
 Offended, humiliated or intimidated the complainant through harassing behaviour

The manager and/ or Human Resources should then determine a course of action which may range from:

Reconciliation and apologies (where it is found the event did take place but it was not harassment); to
 Compulsory training and education in issues related to harassment; (where the harasser is deemed to have acted in ignorance); depending on the seriousness of the situation, this may be provided by an external expert; to
 Formal Warning to be documented in accordance with the Corrective Performance Management policy; to
 Dismissal (where a harasser knowingly or deliberately harassed another person) in accordance with the Corrective Performance Management policy.

The manager should ensure the complainant has not been victimised in any way by having made the complaint.

A written explanation of the findings, results and actions of the investigation should be made by the manager and/ or Human Resources and copied to the complainant and respondent.

Where it is determined discrimination or harassment did NOT take place:

The manager and/or Human Resources should:

Explain to all parties the evidence does not support the complaint;
 Advise the complainant of his/her right to take the complaint to the appropriate Board or Commission if they are not satisfied;
 Continue to monitor the situation to ensure the issue remains resolved and the complainant has not been victimized in any way by having made the complaint;
 Maintain a written record of the outcomes.

If it is found that the original complaint was unfounded and was made with the deliberate intent of bringing disrepute to the alleged harasser (or harassers) the manager and/or Human Resources should commence the Corrective Performance Management process with the complainant as appropriate.

Record Keeping

All records and notes must be stored in a confidential manner and all copies must be forwarded to Human Resources for filing in the appropriate employment files.

Study Group Category
ANZ-HR-09

Study Group Division

Study Group Department

Study Group Brand

Study Group Region

Study Group Subregion

Study Group Country

Study Group Location

Study Group Faculty