

Bullying and Harassment Policy

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1 Purpose

The purpose of this policy is to:

- outline the responsibilities of managers and workers to achieve and maintain a workplace where everyone feels safe and is treated with dignity and respect.
- ensure workers and managers understand and can identify what bullying and harassment is and how to prevent it.
- provide guidance on how to respond to and report alleged inappropriate behaviours identified under this policy.

This policy also alerts all workers to the types of behaviours considered inappropriate, as referred to in [section 5](#).

This policy is a supporting document to the [Code of Ethical Conduct](#), and should be read in conjunction with the associated procedures found in [section 14](#).

2 Scope

This policy applies to all Department of Communities and Justice (DCJ) workers, including senior executives. By accepting employment with DCJ, workers must be aware of, and comply with, this policy at all times.

Casuals, committee members, contractors, subcontractors, consultants, suppliers, volunteers, students, apprentices/trainees, and those on work experience must also be made aware of this policy, and the requirement for them to act in accordance with it, for the period of their engagement. Workers who engage or manage external consultants, contractors, suppliers, volunteers, or students are responsible for referring this document to the appropriate employer and/or respective organisation to address concerns regarding inappropriate behaviour which may be considered contrary to this policy and the Code of Ethical Conduct.

This policy is applicable to any interaction workers have with other people in the workplace or through association with the workplace. This may include interactions outside of the workplace including, social events, sporting groups and electronic interactions such as social media, email and text.

3 Policy statement

DCJ is committed to creating a workplace culture where everyone is treated with dignity and respect and are safe to express their identities.

Bullying and harassment is recognised as a leading psychosocial hazard within the workplace that can have a significant impact on staff health and wellbeing. As such, all workers share an obligation to actively prevent bullying and

harassment and contribute to building safe workplaces that are positive and productive in line with [DCJ's values](#) of Service, Trust, Accountability, Integrity and Respect.

This policy outlines how this can be achieved and provides a framework to assist workers and managers in determining an appropriate course of action when inappropriate behaviour is identified.

4 Responsibilities

4.1 Workers

All workers of DCJ must:

- ensure they understand and act in accordance with DCJ's values, code of ethical conduct, bullying and harassment policy and associated procedures, and proactively build their knowledge of bullying and harassment
- not engage in inappropriate workplace behaviour meaning they must treat others with dignity, courtesy, and respect
- contribute to a work culture where any form of inappropriate behaviour as defined under this policy is unacceptable, speak up and take action when they see, know of or can anticipate behaviour that may cause offence, distress or harm to others
- consider the lived experiences of workers from diverse backgrounds in relation to matters raised under this policy and how this can inform their perspective on the severity of the issue
- attempt/assist to resolve any workplace issues or misunderstandings in a way that is safe, prompt and at a local level (where appropriate)
- report the details of any incident or suspected breaches of this policy to management and otherwise keep the incident, and any investigation, confidential
- undertake any training available relevant to this policy and its associated procedures
- always behave in a way that creates a safe, respectful, and inclusive environment and prioritise looking after the safety and wellbeing of others
- try to ensure that any person impacted by inappropriate behaviour is safe and check in on them if appropriate, including by listening to their experience without judgement or preconceived solutions, and genuinely trying to understand how they would like you to help

- cooperate with any action taken to comply with the requirements of this policy, including cooperatively participating in any inquiries or investigations about incidents.

4.2 Managers

In addition to the worker responsibilities, managers must:

- know and model departmental values, ethical behaviour and maintain a professional work environment
- consider the lived experiences of workers from diverse backgrounds while addressing matters raised under this policy and how this can inform their perspective on matter, safety, and willingness to address it
- proactively seek guidance and advice from people business partners, conduct and professional standards (DCJ) /professional standards and investigations (CSNSW) and work health and safety on how to manage and report allegations under this policy
- speak up when they see, know of, or can anticipate the likelihood of inappropriate behaviour, and create an environment that encourages their team members to feel safe speaking up about instances of inappropriate behaviour
- communicate and promote this policy, ensuring workers are provided with sufficient information to understand this policy, their responsibilities, and the standards of appropriate behaviour, in the workplace
- take all reasonable steps to ensure the workplace is free of inappropriate behaviour, in accordance with the code of ethical conduct and related documents/standards, including the [DCJ Inclusion Strategy](#)
- acknowledge and understand that addressing risks associated with inappropriate behaviours is a legislative duty under the [Work Health and Safety Act 2011 \(NSW\)](#) and [Work Health and Safety Regulations 2017 \(NSW\)](#)
- proactively identify and assess risk factors for inappropriate behaviour, as defined under this policy, using the tools provided under the [Work, Health and Safety Risk Management Procedure](#), seeking advice from their people business partner where needed.
- deal promptly with inappropriate behaviour by gathering and considering all relevant information to support confidential, clear, and direct conversations with workers, where required, about the need for the behaviour to stop, the expected standards and the next steps.

- assist workers who may have experienced or exhibited inappropriate workplace behaviours to resolve the issue at a local level (where appropriate) in accordance with this policy and its related procedures.
- prioritise the care and support of workers who may have experienced inappropriate workplace behaviours.
- ensure workers are aware of the various types of support and resources available to them under this policy.
- provide access to DCJ's employee assistance program and/or where available the peer support program.
- lead with [inclusive behaviour](#) and have frequent and meaningful conversations with their team about values and ethical behaviour.
- provide advice and guidance on the code of ethical conduct, bullying and harassment policy and their associated procedures to workers in each work area.
- treat all matters seriously and confidentially and take prompt action to address them (taking into account the wishes of the person subjected to the inappropriate behaviour).
- ensure that complaints in their areas/teams are managed and resolved or escalated (where appropriate) in accordance with this policy and its associated procedures.

4.3 Directors

In addition to the worker and manager responsibilities, directors must:

- analyse the risk of inappropriate behaviours, as outlined in this policy, and take all reasonable steps to ensure the workplace is free of inappropriate behaviour in accordance with the code of ethical conduct.
- work with managers to monitor and locally record complaint quantity, types, themes, and resolution in their areas/teams.
- proactively monitor workplace culture through available reporting mechanisms, such as people matter employment survey and deploy action plans to address emerging themes under this policy.

4.4 Executive

DCJ's executive has responsibility for creating an inclusive workplace that underpins the department's core values and is free from inappropriate behaviour.

As senior leaders, the executive have a responsibility to promote and model positive workplace behaviours. Therefore, it is critical that leaders at all levels understand and comply with the DCJ Code of Ethical Conduct and all behavioural

policies in place at DCJ to better contribute to cultures that prevent workplace bullying, harassment and sexual harassment.

In addition to the worker, manager, and director responsibilities, an executive must create a work culture where workers feel comfortable to speak up. They also must ensure this policy, and any associated procedures and systems are in place, upheld and proactively communicated, along with mechanisms to address complaints about inappropriate behaviour.

4.5 DCJ Conduct and Professional Standards (CaPS)/ CSNSW Professional Standards and Investigations (PSI)

The responsibilities of CaPS and PSI are to:

- manage/assess serious or complex matters which may involve misconduct including (but not limited to) allegations of inappropriate behaviour as outlined in this policy.
- collect data, maintain systems, and provide management reports on inappropriate behaviour which may involve misconduct.
- provide advice to managers/directors to determine if an allegation of inappropriate behaviour may constitute misconduct and require referral to an external agency (inclusive of police and/or office of the children's guardian) in particular circumstances.

4.6 People Business Partner

The responsibilities of People Business Partners are to:

- provide advice and support on how to identify inappropriate behaviours and the processes supporting the resolution of all matters under this policy.
- assist managers in ensuring appropriate mechanisms are in place to support workers.

4.7 Work Health and Safety (WHS)

The responsibilities of WHS are to:

- receive incident reports and enable managers and leaders to conduct investigations and take corrective actions through safety suite
- consider any imminent risks to health and safety arising from inappropriate behaviour and assess the effectiveness of control measures in place to eliminate or minimise that risk
- support managers in ensuring appropriate mechanisms are in place to support workers

- consult with an affected/injured person, the relevant people business partner, relevant manager, and other business areas to determine suitable next steps and process
- assist with investigations, where required.

4.8 Injury Management

The responsibilities of Injury Management are to:

- provide support to all parties regarding return-to-work activities
- provide data to departmental and divisional executive on workers compensation claims that may relate to inappropriate behaviours.

5 What constitutes inappropriate behaviour

5.1 Inappropriate behaviour

Inappropriate behaviour is the collective term used within this policy for bullying, harassment, sexual harassment, discrimination, vilification, violence, and victimisation. Inappropriate behaviour is unacceptable and will not be tolerated in any of the areas where this policy applies. Inappropriate behaviour is harmful and may vary in nature and seriousness including unlawful behaviour. It can occur within a broad and diverse range of circumstances, which will require different forms of management.

DCJ will not tolerate inappropriate behaviour. The management of these matters will be in accordance with the relevant departmental policy and procedures and will be dealt with promptly. The matter will be treated seriously, fairly, confidentially, impartially and without victimisation.

5.2 Reasonable management action

It is important to differentiate between a person's legitimate authority at work and bullying. All employers have a legal right to direct and control how work is done, and managers have a responsibility to monitor workflow, give feedback and manage performance in a reasonable manner.

Reasonable management action includes:

- leading, directing and controlling how work is done
- setting realistic and achievable performance goals, standards, and deadlines
- fair and appropriate rostering and allocation of working hours
- deciding not to select a worker for a promotion where a fair process is followed applying the capability framework and where there is a justified basis for the decision

- informing a worker about underperformance and/or unsatisfactory performance in an honest, fair, and constructive way
- informing a worker about unreasonable/inappropriate behaviour in an objective and confidential way
- assigning a worker to a different workplace location or adjusting duties to meet organisational needs, or to manage any properly identified risks of managing workplace issues or alleged misconduct
- implementing organisational changes or restructuring
- suspending a worker, or taking disciplinary action, including terminating employment, where appropriate or justified in the circumstances.

5.3 Types of inappropriate behaviour

5.3.1 Bullying

Bullying at work occurs when:

- An individual, or group of individuals, repeatedly behaves unreasonably towards a worker (or a group of workers, of which the worker is a member); and
- That behaviour creates a risk to health and safety.

Repeatedly behaving unreasonably may include a range of unreasonable behaviours over time and does not need to be the same behaviour repeated.

It does not matter whether the person engaging in the behaviour intended to cause offence or harm. It includes behaviour that is victimising, humiliating, undermining, intimidating, or threatening, which creates the potential for, or causes harm.

Examples of unreasonable behaviour include (but are not limited to):

- abusive, insulting and/or offensive language or comments
- unjustified criticism
- spreading gossip or false and malicious rumours about a person
- aggressive and intimidating conduct
- deliberately excluding someone from workplace activities
- withholding information or equipment that is needed for work
- a person treating one or more people in the workplace less favourably, either directly or indirectly, may be considered unreasonable and inappropriate
- setting unreasonable timelines or constantly changing deadlines without justification

- setting tasks that are unreasonably below or beyond a person's skill level
- assigning a person meaningless tasks or tasks unrelated to their job
- denying access to information, supervision, consultation, or resources to the detriment of the worker
- teasing a person or playing practical jokes on them
- pressuring or coercing someone to behave inappropriately, including by ganging up on someone.

5.3.2 Harassment

Harassment is any uninvited or unwanted behaviour which a reasonable person, having regard to all the circumstances, would have anticipated could make the person harassed feel offended, humiliated, or intimidated.

It does not matter whether the person engaging in the behaviour intended to cause the other person to feel offended, humiliated or intimidated.

A lack of objection to the behaviour at the time does not mean that the behaviour is welcome, or that it is acceptable to continue or happen again. A single, one-off incident is enough to constitute harassment. The behaviour does not have to be repeated, but if it is repeated, it may also amount to bullying.

All forms of harassment are unacceptable and will not be tolerated. Some types of harassment are unlawful, such as sexual harassment, sex-based harassment, harassment based on a person's disability, and racial harassment.

Harassment can include behaviour such as:

- making rude remarks, derogatory comments, insults, or taunts
- making unwanted physical contact
- mimicking someone
- telling jokes based on negative stereotypes
- displaying or sharing offensive material, such as posters, cartoons or 'meme's, including via email, text, and over social media.

5.3.3 Sexual harassment

Sexual harassment includes any unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature which a reasonable person, having regard to all the circumstances, would have anticipated could make the person feel harassed, offended, humiliated, or intimidated.

Sexual harassment is rarely an aberration or an isolated, one-off incident and can occur between peers or within a leadership hierarchy. In most cases, the

existence of sexual harassment reflects someone, or a group of people, who overlook or excuse disrespectful behaviour towards others (particularly towards women and people who do not conform to traditional gender roles, such as LGBTIQ+ people). Sexual harassment is more likely to occur where workplace demographics, values and structures prioritise men, and the culture reinforces rigid gender norms and sexist attitudes.

A key driver of sexual harassment are attempts to exert power and authority over others who are (or who are perceived to be) more vulnerable, usually due to factors such as age, gender identity, sexual orientation, cultural and linguistic diversity, and disability.

Sexual harassment can still occur even when the person engages in the behaviour with innocent or humorous intentions, or simply exercises poor judgement.

The harasser does not need to receive an indication from the other person that the conduct is unwelcome in order for it to amount to harassment. A lack of objection to the behaviour at the time does not mean that the behaviour is welcome, or that it is acceptable for the behaviour to continue or happen again. The question is whether a reasonable person would have anticipated that, in the circumstances, the conduct could cause offence, humiliation or intimidation.

A single, one-off incident is enough to constitute sexual harassment. The behaviour does not have to be repeated.

The consumption of alcohol or being intoxicated is not an excuse or a defence to engaging in sexual harassment.

Examples of behaviour that could be sexual harassment in the workplace include, but are not limited to:

- unwelcome or inappropriate touching, hugging, cornering, or kissing
- inappropriate staring or leering that makes the other person feel intimidated
- sexually explicit or indecent physical contact
- actual or attempted sexual assault
- being followed or watched or having someone loitering nearby
- sexual gestures, indecent exposure, or inappropriate display of the body
- displaying sexually explicit images or objects around the office
- intrusive or sexually suggestive questions, comments, or jokes
- commenting on a person's body, private life, gender identity, sexual orientation, sexual relationships, sexual practices, including asking intrusive questions about these topics

- unwanted or repeated invitations to go out on dates, start a relationship or propositions for sex
- emailing pornography or rude jokes
- making inappropriate, suggestive contact via personal messages or social media
- displaying or sharing sexually explicit material, such as sexual texts, videos, memes, posters, screensavers, photos, or calendars including via email, text and over social media
- communicating content of a sexual nature through social media
- sharing, or threatening to share intimate images/video of someone without consent
- persistently inviting someone to non-work social events or repeatedly making unreciprocated requests to get together outside work
- ongoing unwelcome contact (e.g., in person, by phone, via social media) following the end of a consensual relationship.

DCJ can be held vicariously liable (i.e., legally responsible) for acts of sexual harassment by its workers where it fails to take reasonable steps to prevent the harassment.

Some forms of sexual harassment (e.g., sexual assault, indecent exposure, stalking and obscene communications) may also be criminal offences in accordance with the [Crimes Act \(NSW\) 1900](#).

5.3.4 Discrimination

When a person engages in discrimination, they are treating (or proposing to treat) someone less favourably because of a personal attribute protected by the law (protected attribute) in various areas of 'public life', including in the workplace and when engaging in work related activities.

Protected attributes include:

- disability (including a temporary disability, such as a broken leg, past disability, or future/imputed disability), disease or injury, including work related injury
- parental status, family responsibilities, status as a carer or carer responsibilities
- race, colour, descent, national origin, or ethnic background
- age, whether young or old
- sex

- industrial activity, including being a member of an industrial organisation (such as a union), deciding not to join a union, or taking part in industrial activity
- religious beliefs or activity
- pregnancy and breastfeeding
- sexual orientation, intersex status, and gender identity
- marital and relationship status, whether married, divorced, unmarried, in a de facto relationship or in a same-sex relationship
- political opinions or activity
- social origin
- criminal record; and/or
- association with someone who has, or is assumed to have, one of these characteristics, such as being the parent of a child with a disability.

It is also against the law for someone to treat a person less favourably because:

- they assume the person has a protected attribute
- they assume the person may have a protected attribute at some time in the future; or
- of the person's association with someone who has a protected attribute (e.g., a partner or child).

Direct Discrimination

Discrimination can occur when a person or group is treated less favourably in the same or similar circumstances, because they have one of the protected attributes listed above. Examples of behaviour that constitutes direct discrimination include:

- expressing negative stereotypes about particular groups, such as saying "I don't trust co-workers who aren't members of the union."
- using a negative stereotype as the basis for a work-related decision, such as deciding not to promote a woman on the basis that she is pregnant or a worker who is likely to take parental leave; or
- following a hiring process that is based on irrelevant characteristics (such as age, race, pregnancy or disability), rather than capabilities.

Indirect Discrimination

Indirect discrimination includes when a rule or requirement is applied to everyone, but it has (or is likely to have) the effect of disadvantaging a person (or

a group of people) who have a protected attribute, and it is not reasonable in the circumstances.

Examples of behaviour that constitutes indirect discrimination include:

- scheduling a team wide meeting at a time that is unachievable for a team member with caring responsibilities, when an alternative was available
- only hiring people who have never made a workers' compensation claim
- arranging a work event in a building that is not accessible to everyone.

5.3.5 Vilification

Vilification is a public act that could incite others to hate, have serious contempt for, or severely ridicule an individual or a group of people because of their race, nationality, descent, ethnic or ethno-religious background, religious belief or affiliation, gender identity, intersex status, sexuality, HIV/AIDS status, or transgender status.

Examples of vilification may include:

- posting racist graffiti or messages
- making comments on social media
- wearing or displaying anti-Semitic clothes, signs, or flags
- sharing derogatory material about people of a particular nationality via a mailing distribution list
- yelling offensive comments about a particular religious group within earshot of others.

Vilification will not be tolerated at DCJ. In some instances, it may amount to a criminal offence.

5.3.6 Violence

Workplace violence, including [lateral violence](#), is a serious WHS hazard that may be encountered in the workplace. It can cause physical and/or psychological injury and suffering and may result in serious injury.

Workplace violence is any incident where an individual is physically attacked or threatened or subjected to aggression in the workplace. Violence and aggression include written, verbal and emotional abuse or threats, or a physical attack to an individual or to property by another individual or group.

Workplace violence can have significant short-term and long-term impacts on a worker's psychological and physical health. These can in turn have significant economic and social costs for workers, their families, DCJ and the wider community.

Under NSW law, if an individual threatens to commit an act of violence (including sexual violence) against a worker, and that person believes the individual is capable of carrying out the threat, then a crime may be considered to have occurred (even in the absence of direct physical contact).

All acts of violence in the workplace must be reported through the relevant safety reporting system and referred to Conduct and Professional Standards (DCJ)/Professional Standards and Investigations (CSNSW) and NSW Police where necessary.

5.3.7 Victimisation

Victimisation is subjecting, or threatening to subject, a person with some form of detriment because they have:

- lodged, or are proposing to lodge, a report of inappropriate behaviour, including upstanders or people perceived to have helped a person make a report
- provided evidence, information or documents about a report of inappropriate behaviour, including as a witness in the course of an investigation
- asserted their rights, or supported someone else's rights under equal opportunity, anti-discrimination laws or this policy
- made an allegation that a person has acted unlawfully
- refused to do something because it would be discrimination, harassment, bullying, vilification or victimisation
- made a Public Interest Disclosure.

A person's initial report (for example, in relation to bullying, discrimination or harassment) does not have to be upheld for the relevant conduct to amount to victimisation.

Victimisation is unlawful, inconsistent with DCJ's values and represents a breach of this policy. Allegations of victimisation should be referred directly to Conduct and Professional Standards (DCJ)/Professional Standards and Investigations (CSNSW).

A person may be subject to a separate disciplinary action if they are found to have victimised, harassed or taken reprisal action against people who intervene to stop unacceptable workplace behaviour, report it, or participate in any relevant inquiries or investigations.

6 Prevention

DCJ is committed to taking a proactive and holistic approach to preventing inappropriate behaviour in the workplace. Bullying and harassment is

recognised as a leading [psychosocial hazard](#) that can have a significant impact on staff health and wellbeing.

Under WHS laws, DCJ has a positive duty to prevent inappropriate behaviour as described in this policy, as it is a hazard and risk to a worker's physical and psychological health.

The duty requires DCJ to eliminate risks to the health and safety of workers and other people so far as reasonably practicable. Where it is not reasonably practicable to eliminate risks, they must be minimised so far as reasonably practicable.

6.1.1 Risk assessment

Prevention requires the identification of risks and an assessment of the work environment. The [WHS Risk Management Procedure](#) outlines DCJ's process for the identification, assessment, control and review of WHS hazards and their associated risks, enabling all workers to manage risk and facilitate continuous improvement. Matters escalated through reporting mechanisms outlined in this policy are proactively managed and undergo continual risk assessment processes.

7 Reporting

There are different reporting options available to workers, depending upon the nature of the issue. This includes:

- Reporting internally
- Reporting externally
- Reporting as an upstander

Workers should familiarise themselves with the available reporting options and promptly report any concern or alleged inappropriate behaviour.

DCJ will ensure workers have access to additional supports to make reports, where needed. This may include accommodating accessibility requests or engaging language services.

7.1 Reporting internally

If the matter relates to a breach under this policy:

- corrective services workers can contact Professional Standards and Investigations (PSI)
- all other DCJ workers can contact Conduct and Professional Standards (CaPS).

For further information, see the “How to Report” section on the [Creating Respectful Workplaces](#) intranet page.

If the matter relates to a workplace issue as defined under the [Managing Workplace Issues Procedure](#), workers should follow the pathways outlined in the Managing Workplace Issues Procedure.

To report a WHS incident or hazard, including a near-miss situation, which has caused or has the potential to cause injury, workers should log an incident via [Safety Suite](#). For further information on how to report WHS incidents in Safety Suite, see the [Safety Suite intranet page and the WHS Incident Reporting Procedure](#).

Workers can seek advice from their manager or People Business Partner if they are unsure which reporting option is the most appropriate. Workers can also seek advice from their People Business Partner or CaPS/PSI if they would like to discuss a matter further, or where they are unsure whether a particular behaviour would fall under this policy.

7.2 Reporting externally

For WHS concerns under this policy, workers can make confidential reports to [SafeWork NSW online](#) or by calling 13 10 50. SafeWork NSW encourages workers to report the issue internally before making a report to them. However, it is recognised that it is not always safe or appropriate for workers to do this.

For complaints of discrimination covered by the Anti-Discrimination Act, workers can contact Anti-Discrimination NSW. Anti-Discrimination NSW provides a range of resources for supporting individuals who have been affected by discrimination. Workers can learn more about the process by visiting the [Anti-Discrimination NSW](#) website.

For incidents of sexual harassment that may constitute sexual assault, workers can report the incident to NSW Police to have the matter formally investigated. NSW Police also offers an online [Sexual Assault Reporting Option](#) (SARO). A SARO report does not automatically trigger a formal investigation. Reports via SARO can be made anonymously.

In an emergency related to incidents of workplace violence, workers should call Triple Zero (000). Where there is no immediate life-threatening situation, workers can report through their Local Police Station. For all general enquiries, including non-emergencies, workers can contact the Police Assistance Line at 131 444, or for hearing or speech impaired (02) 9211 3776.

Workers impacted can make an external report regardless of whether they have raised a complaint internally.

7.3 Reporting as an upstander

An upstander is someone who acts to support and protect their colleagues against inappropriate behaviour. Upstanders are encouraged to speak up and take action when they see, know of, or can anticipate behaviour that may cause offence, distress or harm to others.

DCJ is committed to providing a positive and inclusive workplace by adopting a culture that reflects and embodies the concept of “the standard you walk past is the standard you accept.” Bullying and harassment is not to be ignored or accepted.

Individuals may be liable if they request, instruct, induce, encourage, authorise, or assist someone to discriminate against, harass, bully, vilify or victimise another person.

Upstanders who witness inappropriate behaviour as defined under this policy are encouraged to:

- provide support to the person who is being subjected to the behaviour
- speak up and take action when they see, know of or can anticipate behaviour that may cause offence, distress or harm to others
- report through the appropriate pathway identified in this policy
- cooperate with any action taken to comply with the requirements of this policy, including cooperatively participating in any inquiries or investigations about incidents
- access support through DCJ’s [Employee Assistance Program](#) and/or DCJ’s [Peer Support Program](#).

Upstanders can seek advice from their manager or People Business Partner as to which reporting option is appropriate. Where upstanders are unsure whether a particular behaviour would fall under this policy, they can seek advice from their People Business Partner or CaPS (DCJ)/PSI (CSNSW).

DCJ will protect upstanders’ rights by ensuring the principles of procedural fairness are applied.

8 Breaches

Breaches of this policy are contrary to the Code of Ethical Conduct and can be reported in accordance with this Policy and/or to the Conduct and Professional Standards Branch (DCJ) or Professional Standards and Investigations (CSNSW).

In circumstances where a worker is found to have engaged in inappropriate behaviours towards another worker, group of workers, clients, or suppliers, they are deemed to be in breach of this policy and may be subject to management

and/or disciplinary action, which may include termination, depending on the specific circumstances.

Allegations of misconduct will be managed in accordance with the [Government Sector Employment Act 2013](#) and relevant departmental procedures.

9 Procedural fairness

Procedural fairness occurs when rules and processes are followed fairly and consistently when making decisions throughout a process. Procedural fairness ensures everyone involved in the process is treated impartially, has a chance to be heard and decisions are made based on reliable evidence.

DCJ will protect worker rights by:

- assuring them that any report will be dealt with impartially, fairly and reasonably in accordance with the principles of procedural fairness
- confirming that the report is an allegation only, if and until information or evidence obtained through a review substantiates or supports the allegation
- providing them with information about their rights, and the progress and outcome of any review
- referring them to DCJ's Employee Assistance Program for support
- allowing both parties the opportunity to respond to any allegations made against them before any report is finalised and a final decision is made.

Any reports made that are found to be intentionally falsified or vexatious in nature will be actioned accordingly – noting that this conduct may itself amount to misconduct under the [Government Sector Employment Act \(NSW\) 2013](#).

10 Confidentiality

It is expected that workers involved in a process (including an internal review by management or investigation) will keep details of the matter confidential. Failure to do so may result in further consequences or disciplinary action in accordance with the Code of Ethical Conduct.

Ensuring confidentiality should not prevent workers from seeking support e.g., through DCJ's Employee Assistance Program, health professionals, Peer Support Program, Staff Support, Culture and Wellbeing (for Corrective Services workers), and/or their Union or Union Delegates.

Where there is reason to believe that a person is a risk to themselves or others and in the case of reportable conduct (e.g., child protection, serious indictable offence), DCJ may need to notify appropriate authorities.

11 Record keeping

DCJ keeps confidential records of all correspondence with parties in relation to reports of inappropriate behaviour, including how the report is addressed, letters, emails, file notes of phone calls and conversations, investigation reports and all evidence collected.

Records are kept in accordance with the [DCJ Records Management Policy](#) and applicable legislation, including the [Government Sector Employment \(General\) Rules 2014, State Records Act 1998](#) and applicable privacy legislation and applicable DCJ records management and privacy related policies.

12 Further support

Workers and managers can seek support from:

- the [DCJ Peer Support Program \(PSP\)](#)
- [My Healthy Workplace](#)
- DCJ Divisional Health and Safety Representatives (HSR's)
- For Corrective Services workers Staff Support, Culture and Wellbeing Directorate
- union representatives
- if an worker is from a diverse background, one of the [DCJ Diversity Networks](#).

DCJ's [Employee Assistance Program](#), Converge International, offers DCJ workers, and their immediate family, confidential counselling, coaching and support 24 hours a day, 7 days a week. There are a number of different services available including Worker Assist, Career Assist, Conflict Assist, Nutrition & Lifestyle Assist, Money Assist, Family Assist and Legal Assist. Converge International also offer 1 additional session to specialist helpline services including:

- First Nations
- LGBTIQ+
- Domestic and Family Violence
- Aged Care Support
- Disability and Carers
- Youth and Student
- Spiritual and Pastoral care

Workers may contact Converge International via 1300 687 327.

Workers can utilise [Let's Talk](#) to help plan for conversations. [Let's Talk](#) is a toolkit to support a simple and structured approach to having conversations that are open and respectful.

13 Assistance with this policy

Workers and managers can seek advice in relation to inappropriate workplace behaviours from:

- the [intranet](#)
- managers and executives
- [Work Health and Safety](#) and/or [Injury Management](#)
- their People Business Partner
- Conduct and Professional Standards/Professional Standards and Investigations
- union representatives
- [SafeWork NSW](#).

Contractors and consultants should discuss this policy with their respective organisation/agency. Volunteers should discuss this policy with their departmental contact officer.

14 Related legislation and documents

- [Age Discrimination Act 2004](#)
- [Anti-Discrimination Act \(NSW\) 1977](#)
- [Australian Human Rights Commission Act 1986](#)
- [Code of Ethical Conduct](#)
- [Crimes Act \(NSW\) 1900](#)
- DCJ's misconduct procedures
- [DCJ Anti-Racism Strategy](#)
- [DCJ Inclusion Strategy](#)
- [DCJ Records Management Policy](#)
- [Disability Discrimination Act 1992](#)
- [Government Sector Employment Act \(NSW\) 2013](#)
- [Government Sector Employment \(General\) Rules 2014](#)
- [Industrial Relations Act \(NSW\) 1996](#)

- [Managing Workplace Issues Procedure](#)
- [Psychosocial Risk Guide](#)
- [Public Interest Disclosures Act \(NSW\) 2022](#)
- [Racial Discrimination Act 1975](#)
- [Respect@Work](#)
- [Sex Discrimination Act 1984](#)
- [DCJ Social Media Policy](#)
- [State Records Act 1998](#)
- [Work Health and Safety Act \(NSW\) 2011](#)
- [Work Health and Safety Regulation \(NSW\) 2017](#)
- [WHS Incident Reporting Procedure](#)
- [WHS Risk Management Policy and Procedure](#)

The Common Law can also apply, that is, worker rights and duties as set down by Australian Courts.

15 Document information

Document name	Bullying and Harassment Policy
Document reference	TRIM D23/2944119
Replaces	Bullying and Harassment Policy V2.0
Applies to	See Policy Section 2 - Scope
Policy administrator	HR Policy and Governance Workforce Strategy, Inclusion & Systems
Approval	DCJ Executive Leadership Team 4 December 2023

16 Support and advice

Business unit	Workforce Strategy, Inclusion & Systems People, Corporate Services
Email	HRPolicyGovernance@dcj.nsw.gov.au

17 Version and review details

Note that it is intended to review this policy 6 months after release and/or as the procedures are revised.

Version	Effective date	Reason for amendment	Due for review
2	11 December 2023	Policy Review Schedule	6 months from approval
2.1	10 October 2024	Truncated review. References to psychosocial hazards updated, legislation/documents links updated, update to procedural fairness definition. Approved by Chief People Officer.	11 October 2027