



Harassment, Bullying and Discrimination

1.0 Scope

The Harassment, Bullying and Discrimination Policy aims to create an environment free from harassment, bullying and unlawful discrimination leading to a productive and positive workplace and educational setting.

This is consistent with both state and Federal legislation specified at the end of this policy.

This policy applies to all staff, students, ASHM representatives, contractors and visitors. Breaches of the policy will be dealt with as misconduct and dealt with under the relevant policies.

2. Definitions

2.1 Harassment

Harassment is behaviour directed at an individual or group that, because of its severity and/or persistence, is likely to create a hostile environment and cause a detrimental effect to an individual's participation in employment or education. Harassment is determined by the nature and consequences of the behaviour, not the intent of the initiator, and occurs in circumstances where a reasonable person would have expected the behaviour to be offensive, humiliating or intimidating.

Harassment also includes sexual harassment which is any behaviour of a sexual nature which is unwelcome. This can include physical contact (e.g. embracing someone), verbal comments (e.g. suggestive comments about someone's appearance) and non-verbal actions (e.g. leering, suggestive emails). Sexual harassment is not behaviour which is based on mutual attraction, friendship or respect. If the interaction is consensual, welcome and reciprocated, it is not sexual harassment.

2.2 Bullying

Bullying is defined as any ongoing anti-social or unreasonable behaviour that offends, degrades, intimidates or humiliates a person and could create a risk to health and safety and well being. Overt or covert bullying refers to activities that create an environment of fear through acts such as:

- cruelty, belittlement or degradation,
- public reprimand or behaviour intended to punish, such as isolation and exclusion from workplace activities,
- ridicule, insult or sarcasm,
- trivialisation of views and opinions, or unsubstantiated allegations of misconduct,
- physical violence such as pushing, shoving or throwing of objects.

Discrimination occurs when a person is treated less favourably than another person because of certain attributes. Under federal and state laws, it is against the law to discriminate against people or to harass them, in various areas of public life because of their:

- race, including colour, ethno-religious background or nationality,
- sex or pregnancy,

- transgender,
- marital status,
- disability,
- carers' responsibilities,
- homosexuality, or
- age.

It is also against the law to treat people unfairly, or harass them, because of the attributes stated above in relation to any relative, friend or colleague.

In addition, ASHM's *Codes of Conduct* establish any of the following behaviour as unacceptable:

- discriminating against anyone on the grounds of gender identity, sexual orientation, lawful sexual activity, marital, parental or carer status, pregnancy, breastfeeding, age, physical features, impairment, race, ethnicity, political or religious belief or activity, or industrial activity, health status, both known or presumed, including HIV, Viral hepatitis or STI status, or engagement in sex work or illicit drug use.

Direct discrimination is where someone is treated less favourably because of their sex, age, race, disability, pregnancy or any of the other grounds covered by anti discrimination legislation. Indirect discrimination occurs when a requirement (or rule) that is the same for everyone has an effect or result that can disadvantage students or staff because of their sex, race, disability etc.

3. Procedures

ASHM will ensure that staff, representatives, contractors, visitors and students are informed of this policy and their related responsibilities.

Reports and complaints of harassment, bullying and unlawful discrimination will be treated seriously by AHSM and will be investigated promptly in a sensitive, thorough and confidential manner ensuring that complainants and witnesses are not victimised.

The principles of natural justice apply and will guide the application of this policy and associated procedures. This means that before a decision is taken, the person against whom the complaint is made has the right to be informed about the nature and content of the issue, to be heard and to have an unbiased decision maker.

All managers are expected to take a leadership role in ensuring the Harassment, Bullying and Discrimination Policy is adhered to and in taking appropriate action in circumstances where they become aware of existing or possible harassment, bullying or unlawful discrimination.

The complaint resolution process is carried out in good faith and complaints that are frivolous, vexatious, misconceived or lacking in substance will be rejected if a preliminary investigation of the facts indicates this.

4. Options for resolution

ASHM encourages anyone making a complaint about harassment, bullying or discrimination to try to resolve the issue directly and informally through a process of discussion and conciliation, where possible. This may involve seeking advice from a third party member such as a trusted colleague or supervisor.

If the informal options do not work or are not appropriate, staff, representatives, visitors and contractors can make a formal complaint in writing under ASHM's Grievance Procedures. Students may make a formal complaint under this procedure too but only if it is in relation to an ASHM staff member.

Note that complaints can be referred to an external body such as the Anti-Discrimination Board of NSW or the Human Rights and Equal Opportunity Commission at any time.

5. Resolution

As stated above, complaints about harassment, bullying and discrimination will be handled through ASHM's Grievance Handling Procedures. Note that in order to prevent any recurrence, and to eliminate discrimination or harassment, ASHM may undertake the following in response to a complaint:

- update and circulate this policy
- identify any other unacceptable behaviour in the workplace
- nominate a staff member who is trained in counselling and encourage anyone who feels they have been bullied to talk to them, and/or lodge a complaint
- monitor the work environment to ensure that it is free of discrimination or bullying, especially where there has been restructuring or a change in personnel
- provide ongoing training for all staff to cover awareness of discrimination, harassment, assertiveness, interpersonal skills and confidence building.

6.0 Relevant Legislation

Legislation underpinning this policy includes:

NSW Anti-Discrimination Act 1977

Occupational Health and Safety Act 2000 (NSW)

Racial Discrimination Act 1975 (Cth)

Sex Discrimination Act 1984 (Cth)

Human Rights and Equal Opportunity Commission Act 1986 (Cth)

Equal Opportunity for Women in the Workplace Act 1999 (Cth)

Workplace Relations Act 1996 (Cth)

Age Discrimination Act 2004 (Cth)

Disability Standards for Education 2005 (Cth)