

Guidelines For Dealing With

Discrimination, Harassment, Sexual Harassment and Bullying



Prepared by:



Australian Security Industry
Association Limited

About ASIAL

Established in 1969, the Australian Security Industry Association Limited (ASIAL) is the peak national body for the private security industry in Australia.

ASIAL provides advice, assistance and representation to members in the security sector, reflecting its membership of owners and operators of security businesses providing all forms of manpower, cash in transit, electronic and associated security services.



Contents

Introduction	Page 4
So what should employers do to improve the situation?.....	Page 4
Guideline for the Security Industry	Page 4
Definitions	Page 5
Discrimination	Page 5
Discrimination can be either direct or indirect	Page 5
Harassment.....	Page 5
Sexual harassment	Page 5
Workplace bullying	Page 6
Vilification	Page 6
Victimisation	Page 6
Preventing and responding to discrimination, harassment, sexual harassment and bullying	Page 7
Develop a discrimination, harassment sexual harassment and bullying policy	Page 7
Develop a complaint handling investigation procedure	Page 7
Implement discrimination, harassment sexual harassment and bullying policies	Page 7
Create and maintain a positive workplace environment	Page 7
Acknowledgement	Page 8

Contents

Introduction

In 2018 the Australian Human Rights Commission conducted a survey of sexual harassment in workplaces. 10,000 Australians participated. The results are concerning:

- One in three people have experienced sexual harassment at work in the last five years;
- Only 17% of those people made a formal report or complaint;
- Sexual harassment is most commonly perpetrated by men, and is in many cases ongoing;
- One in three people either witnessed or heard about sexual harassment in the workplace, although only one third of those people took action in response to the incident.

Other forms of harassment, bullying and discrimination in the workplace need to be addressed.

So what should employers do to improve the situation?

Employers should be active in implementing preventative measures so as to reduce the instance of harassment within the workplace through the introduction of relevant policies and awareness programs, including the proper handling of allegations and complaints relating to inappropriate workplace behaviour as soon as they are brought to the organisation's attention.

ASIAL has developed guidelines that can assist members with:

- Advice on possible discrimination issues
- Access to education programs on these issues
- Advice on or drafting policies to minimise risks associated with discrimination, harassment or bullying
- Advice how to avoid risks of claims of discrimination in connection with other issues such as termination of employment or implementation of workplace change,
- Representation to deal with discrimination, harassment and bullying allegations or proceedings, including conciliation processes and litigation, if required.

Discrimination, harassment, sexual harassment and bullying of employees in Australian workplaces is illegal.

Under State and Federal Work Health and Safety laws employers are legally responsible for protecting employees from harassment, sexual harassment and bullying in the workplace.

Employers must take reasonable steps to prevent and respond to workplace discrimination, harassment, sexual harassment and bullying by:

- Developing clear workplace policies and procedures on discrimination, harassment, sexual harassment and bullying, including a complaint handling and investigation procedure
- Regularly promoting, communicating and reviewing relevant workplace policies
- Taking a proactive approach to creating and maintaining a positive, inclusive and respectful workplace culture that does not accept any form of discrimination, harassment, sexual harassment or bullying.

ASIAL has developed this guideline to provide members, their management and staff with the tools to prevent, respond to and resolve harassment, sexual harassment and bullying of employees.

Guideline for the Security Industry

This guideline has been prepared to support the prevention of workplace discrimination, harassment, sexual harassment and bullying in the security industry. It confirms our industry's commitment to providing safe, respectful, inclusive and flexible workplaces.

It applies to all employers throughout Australia who work in or in connection with:

- Access control, alarms, CCTV, biometrics, integrated systems;
- Mobile Patrols, Guarding, Patrolling, protecting critical infrastructure crowd control and venue protection, Cash in Transit;
- Locks, screens, bollards, physical barriers and records protection; and
- Administration, Training, Risk management and investigations.

ASIAL expects all member companies, and encourages all other businesses involved in security activities in Australia, to adopt and implement these guidelines.

Definitions

Discrimination

Discrimination is **treating, or proposing to treat, someone unfavourably** because of a **personal characteristic protected by the law**, such as sex, age, race or disability.

Protected personal characteristics under federal discrimination law include:

- A disability, disease or injury, including work-related injury
- Parental status or status as a carer
- Race, colour, descent, national origin or ethnic background
- Age
- Gender, gender identity
- Sexual orientation
- Industrial activity
- Religion
- Pregnancy and breastfeeding
- Marital status
- Political opinion
- Social origin
- Medical record
- An 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 to treat someone unfavourably because you assume they have a protected personal characteristic or may have it at some time in the future.

Discrimination can be either direct or indirect

Direct discrimination is usually easy to identify and occurs when a person or group of people with a particular protected attribute (actual or assumed) are treated less favourably because of that attribute.

Indirect discrimination is less obvious and occurs when a policy or practice appears neutral, yet has the effect of discriminating against those with a particular protected attribute.

Harassment

Harassment is unwelcomed and unsolicited behaviour that a reasonable person would consider to be offensive, intimidating, humiliating or threatening.

Harassment is prohibited by anti-discrimination legislation.

Harassment can be physical, spoken or written. It can include:

- Intimidation, verbal abuse, or repeated threats or ridicule
- Sending offensive messages by text, email or other means
- Derogatory comments
- Display of offensive materials, pictures, comments or objects
- Ridiculing someone because of their accent or English-speaking ability
- Telling offensive jokes or practical jokes based on a protected characteristic
- Belittling or teasing someone about their disability
- Isolation, segregation or humiliation based on a protected characteristic

Sexual harassment

Most jurisdictions agree that sexual harassment occurs where a person engages in unwelcome conduct of a sexual nature in circumstances in which a reasonable person would be offended, humiliated or intimidated.

Sexual harassment can be physical, verbal or written. It can include:

- Staring or leering at a person or parts of their body
- Excessive familiarity or physical contact, such as touching, hugging, kissing, pinching, massaging and brushing up against someone
- Suggestive comments, jokes, conversations or innuendo
- Insults or taunts of a sexual nature
- Intrusive questions or comments about someone's private life
- Displaying posters, magazines or screen savers of a sexual nature
- Sending sexually explicit emails or text messages
- Inappropriate advances on social networking sites
- Accessing sexually explicit internet sites in the presence of others
- Unwelcome flirting, requests for sex or repeated unwanted requests to go out on dates
- Behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications

If someone does not object to inappropriate behaviour in the workplace at the time, it does not mean that they are consenting to the behaviour.

Behaviour can constitute sexual harassment even if:

- It is a one-off incident
- The perpetrator does not intend for the other person to be offended, humiliated or intimidated
- Some people in the workplace are not offended by the behavior
- The behaviour was previously an accepted practice in the workplace

Sexual interaction, flirtation, attraction or friendship, which is invited, mutual, consensual or reciprocated is not sexual harassment.

Workplace bullying

Workplace bullying is where an individual or group of individuals **repeatedly behave unreasonably to another person** or group of persons **at a workplace**, which creates a **risk to health and safety**.

Bullying can take many forms. It can be physical, spoken, written, overt or covert. Behaviours that may constitute bullying include:

- Aggressive or intimidating conduct or threatening gestures
- Manipulation, intimidation or coercion
- Threats, abuse, offensive language, shouting or belittling
- Innuendo, sarcasm and other forms of demeaning language
- Ganging up
- Public humiliation
- Initiation activities
- Practical jokes, teasing, or ridicule
- Isolation, exclusion or ignoring people
- Inappropriate blaming, emails/pictures/text messages
- Unreasonable accusations or undue unconstructive criticism
- Allocating unpleasant, meaningless or impossible tasks
- Placing unreasonably high work demands on selected employees
- Deliberately withholding information or equipment that a person needs to do their job or access their entitlements
- Unreasonable refusal of requests for leave, training or other workplace benefits
- Withholding access to opportunities

Bullying may also constitute unlawful harassment or discrimination, if it is connected to a protected attribute, such as age or race.

Bullying is not:

- Single incidents of inappropriate behaviour (although it may still constitute employee misconduct)
- Reasonable management action undertaken in a reasonable manner, such as:
 - Employer directions
 - Performance management processes
 - Disciplinary action
 - Maintaining reasonable workplace standards

Vilification

Vilification is any **public act that incites hatred, serious contempt, or severe ridicule** against another person or group of people due to their race (including ethno-religious origin), homosexuality, transgender status or HIV/AIDS status.

Vilification is unlawful in all states and territories other than the Northern Territory.

Victimisation

Victimisation is subjecting or threatening to subject someone to a detriment because they have asserted their rights under equal opportunity law, made a complaint, helped someone else make a complaint, or refused to do something because it would be discrimination, harassment, sexual harassment, bullying or victimisation.

It is also victimisation to threaten someone (such as a witness) who may be involved in an investigation of a complaint.

Victimisation is unlawful in all states and territories.

Any form of reprisal taken against an employee who has made a complaint should be reported and investigated immediately, with appropriate disciplinary action taken where the conduct is proven.

Preventing and responding to discrimination, harassment, sexual harassment and bullying

Develop a discrimination, harassment, sexual harassment and bullying policy

All employers, whatever their size, need to develop a written policy⁷ that:

1. States their commitment to providing a safe, respectful, inclusive workplace free from discrimination, harassment, sexual harassment and bullying
2. Makes it clear that any form of discrimination, harassment, sexual harassment and bullying is unlawful in the workplace
3. Clearly outlines their procedure for dealing with complaints in a fair, timely, confidential and responsive manner

Note: ASIAL has templates to assist members to develop appropriate policies.

Develop a complaint handling investigation procedure⁸

A complaint handling and investigation procedure should outline a process for dealing with complaints that is:

- **Fair** – This means that both the person complaining (the complainant) and the person being complained about (the respondent) have the opportunity to present their version of events, provide supporting information and respond to any potential negative decisions. In addition, the person investigating and/or making decisions about the complaint should be impartial – they should not favour the complainant or the respondent or prejudge the complaint in any way.
- **Confidential** – This means that information about a complaint is only provided to those people who need to know about it, in order for the complaint to be actioned properly.
- **Transparent** – The complaint process and the possible outcomes of the complaint should be clearly explained and those involved should be kept informed of the progress of the complaint and the reasons for any decisions.
- **Accessible** – The complaint process should be easy to access and understand, and everyone should be able to participate equally.
- **Efficient** – The complaint process should be conducted without undue delay. As time passes, information relevant to the complaint may deteriorate or be lost, which will impact on the fairness of the process. In addition, unresolved complaints can have a negative and ongoing impact on a workplace.

- Inclusive of the following provisions:
 - Protects employees from being victimised because they have made a complaint
 - Protects employees from vexatious and malicious complaints
 - Offers both informal and formal options
 - Provides clear guidance on internal investigation procedures and confidential record keeping
 - Advises a complainant that they can pursue the matter externally with the Fair Work Commission (bullying), Australian Human Rights Commission, a state or territory anti-discrimination body or, if it appears to be a criminal matter, the police
 - Undergoes a regular review for effectiveness

**ASIAL has templates to assist members to develop procedures for investigating complaints.*

Implement discrimination, harassment, sexual harassment and bullying policies

Written policies on their own are not enough. A policy that is not implemented through communication, education and enforcement will be of little or no use in minimising risk and avoiding liability.

Meaningful implementation of workplace policies could be achieved by the following actions:

- Regularly distribute and promote policies to ensure all employees are aware of the policies and where they can be located
- Regularly communicate and discuss policies to ensure all employees understand their rights and obligations, standards of expected behaviour, and how complaints will be handled
- Review policies regularly to ensure they are operating effectively and contain up to date information

Create and maintain a positive workplace environment

To provide for the safety and wellbeing of employees, it is imperative for employers to proactively create, lead and maintain a positive, inclusive and respectful workplace culture that does not accept any form of discrimination, harassment, sexual harassment or bullying⁹.

Creating a safe, respectful and inclusive workplace culture takes commitment, leadership and clear strategy.

**ASIAL has a suite of relevant on-line training and awareness programs for managers and employees.*

Acknowledgement

ASIAL acknowledges Live Performance Australia, which created a draft Guideline for their industry and kindly allowed ASIAL to use it as a template for further development for the security industry.

ASIAL Members can access a range of Templates, Online training and Resources:

www.asial.com.au



**Australian Security Industry
Association Limited**

Security Industry House
41 Hume Street
Crows Nest NSW 2065

Tel: 1300 127 425

Email: security@asial.com.au