

Transport Prevention and Management of Bullying and Harassment Policy

Applicable to:

This Policy applies to all staff who undertake work on behalf of the Transport agencies listed below:

- Transport for NSW (TfNSW)
- Department of Transport (DoT)
- Sydney Trains
- NSW Trains
- State Transit Authority (STA)
- Sydney Metro

The term 'staff' is used in this Policy to cover all ongoing, temporary or casual staff, staff seconded from another organisation, labour hire workers, professional services contractors and consultants.

Division:	People and Culture
Date of publication:	15 December 2020
Effective date:	15 December 2020
Review date:	15 December 2021
Document owner:	Chief People Officer
Document Approver:	Chief People Officer
Superseded Documents:	CP14023.5 Transport Prevention and Management of Bullying and Harassment Policy

1 Purpose

Transport is committed to building a positive workplace culture in which all staff can expect to be treated with dignity and respect. Transport has zero tolerance towards bullying and harassment both in and outside the workplace. Our core values reinforce our commitment to creating a workplace that is free of bullying and harassment. This commitment is clearly referenced in the Code of Conduct.

The purpose of this Policy is to provide a framework that will enable Transport to identify, prevent, manage and eliminate bullying and harassing behaviours. It supports our obligation under the *Work Health and Safety Act 2011* to eliminate, or where this is not possible, minimise risks to health and safety.

1.1 Definitions

All terminology in this Policy is taken to mean the generally accepted or dictionary definition with the exception of the following terms which have a specifically defined meaning:

Term	Definition
Workplace bullying	Repeated and unreasonable behaviour directed towards a worker or group of workers that creates a risk to health and safety.
Harassment	Harassment may be a form of discrimination and occurs in the form of behaviours a person does not want or invite, and which a reasonable person would consider to be offensive, embarrassing, intimidating, threatening, humiliating and/or insulting.
Discrimination	<p>Unlawful discrimination is where a person is treated differently or unfairly based on attributes that are protected under equal opportunity and anti-discrimination legislation.</p> <p>These include, but are not limited to, disadvantaging a person because of their race, colour, sex, sexual orientation, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin.</p> <p>Our commitment to creating a workplace free of discrimination is outlined in the <i>Discrimination Free Workplace Policy</i>.</p>
Repeated behaviour	Refers to the persistent nature of the behaviour and can involve a range of behaviours over time.
Unreasonable behaviour	Behaviour that a reasonable person, having regard for the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.
Victimisation	Subjecting a person to some form of detriment (including bullying and/or harassment) as a result of a complaint of any nature being lodged.

2 Mandatory Requirements

Transport is committed to providing a safe workplace free from bullying and harassment. All staff must treat colleagues and customers fairly, with dignity and respect.

2.1 What is bullying

Bullying can occur whenever people work together in all types of workplaces, and can be carried out in a variety of ways, including through email, text messaging, social media and/or face-to-face contact.

Bullying can be directed at, or carried out by, either a single person or group of staff, and can occur at any level in an organisation.

Examples of behaviours, whether intentional or unintentional, that may be considered bullying if they are repeated, unreasonable and create a risk to health and safety may include, but are not limited to:

- abusive, insulting or offensive language or actions;
- unjustified criticism or complaints;
- deliberately and inappropriately excluding someone from workplace activities;
- withholding information that is vital for effective work performance;
- setting unreasonable timelines or constantly changing deadlines;
- setting tasks that are unreasonably below or beyond a person's skill level;
- regular unfair or inappropriate allocation of work;
- denying access to information, supervision, consultation or resources such that it is a detriment to the staff member(s);
- spreading misinformation or malicious rumours;
- changing work arrangements, such as rosters and leave, to deliberately inconvenience a particular staff member(s); and/or
- excessive and unreasonable scrutiny at work.

A single incident of unreasonable behaviour may not be considered bullying, however will not be ignored if identified. Agencies will intervene to ensure these incidents do not escalate. A single incident may still constitute misconduct that will be investigated and actioned in accordance with Transport policies and agency procedures.

2.2 What is harassment

Harassment generally involves unwelcome behaviour that a reasonable person would consider intimidates, offends and/or humiliates a person.

Harassment may be a single incident based on some characteristic of the affected person. The [Anti-Discrimination Act 1977](#) makes it unlawful to discriminate or harass a person in the workplace.

Examples of incidents that may be considered harassment include, but are not limited to:

- physical factors such as uninvited touching, intruding in one's personal space, and/or the damaging of one's possessions,

- singling out those who are from a minority group;
- negative behaviour founded on discrimination;
- making vexatious, baseless complaints against an individual (that is, complaints that are false and with the intention to harm an individual); and/or
- sexual related behaviours that are not wanted, not asked for, and not returned, which humiliate, offend or intimidate the person - sexual harassment may include, but is not limited to:
 - gestures, comments, innuendo, taunts, propositions, jokes and enquiries about a person's sex life;
 - displaying or circulating sexual material, physically or electronically;
 - repeating sexual or social invitations when the person has already indicated they are not interested; and/or
 - attempting to coerce a person into any form of sexual activity, or to punish them for refusal.

2.3 What is not bullying

Managers are able to effectively direct the way work is carried out, allocate work and give fair, constructive and reasonable feedback on a staff member's performance. These actions are not considered to be bullying or harassing if they are carried out in a reasonable manner.

Examples of reasonable management action include, but are not limited to:

- setting reasonable performance goals, standards and deadlines;
- rostering and allocating working hours for operational requirements;
- transferring staff for operational reasons;
- deciding not to select a staff member for promotion where a reasonable process is followed and documented;
- informing a staff member about unsatisfactory work performance when undertaken in accordance with policies and/or procedures;
- informing a staff member about inappropriate behaviour in an objective and confidential way;
- implementing organisational change or restructuring;
- commencing disciplinary proceedings against a staff member for breaches to the Code of Conduct, policies or procedures; and/or
- termination of employment, following a reasonable and documented process.

2.4 Impacts of bullying and harassment

Bullying and harassment can be harmful to the person experiencing it and to those who witness it. Effects may include (but are not limited to) the following:

- distress, anxiety, panic attacks or sleep disturbance;
- physical illness, such as muscular tension, headaches and digestive problems;
- hypertension, alcoholism, aggression;

- reduced work performance;
- loss of self-esteem and feelings of isolation;
- deteriorating personal and professional relationships;
- depression; and/or
- thoughts of suicide.

Bullying and harassment can also have a negative effect on the reputation of the organisation. The time and costs associated with remedying inappropriate behaviour can be significant and may lead to:

- high staff turnover and associated recruitment and training expenses;
- low morale and motivation;
- increased absenteeism;
- lost productivity;
- disruption to work when complex complaints are being investigated; and/or
- costly workers compensation claims or legal action.

2.5 Managing bullying and harassment

All reports of bullying and harassment will be treated seriously and managed promptly in accordance with this Policy and agency procedures.

On receipt of a bullying and harassment complaint, an assessment will be made as to how the matter should best be handled in consultation with the person experiencing the bullying and/or harassment. Options may include local resolution between the involved parties, mediation, and/or investigation.

2.6 Victimisation

Staff who witness and report bullying and/or harassing behaviour, and/or are involved in an investigation as a witness, are not to be victimised in any way.

Victimising a person who has made a complaint, or is involved in an investigation of a complaint, may include bullying and/or harassing behaviours such as silent alienation, threats or reprimanding actions such as less favourable shifts or intimidation.

2.7 Confidentiality

All staff involved in a complaint (including its resolution) must maintain confidentiality and only discuss the matter with their nominated support person(s), representatives, personal advisors or immediate family members. Any breach of confidentiality may result in disciplinary or legal action. Confidentiality not only protects the complainant, it also maintains the integrity of an investigation and respects the rights of the people who are the subject of the complaint.

Transport has a duty of care for the health and wellbeing of staff whilst at work. The nature of some incidents may need to be reported to external authorities. Information including the identity of the complainant, respondent and nature of an incident may need to be disclosed. For example, incidents involving violence, assault and stalking could constitute criminal conduct and may need to be reported to the police. Where appropriate, consent from the victim will be obtained for certain matters for example, domestic violence. Transport has an obligation to report certain incidents which do not require the victims consent for example, corruption.

2.8 Vexatious or frivolous complaints

Staff found to be making vexatious and/or frivolous complaints may be subject to disciplinary action in line with relevant policies and procedures, up to and including termination of employment.

3 Accountabilities

All staff must ensure, insofar as it is reasonably practicable, that workplace bullying does not occur by creating a work environment where everyone treats others with dignity and respect.

Accountabilities to prevent bullying and harassment may include, but are not limited to:

Accountability	
Transport	<ul style="list-style-type: none"> • Promoting an inclusive workplace culture, where organisational processes and procedures are fair and transparent, accessible and promoted. • Providing policies, procedures and/or processes to ensure reports of bullying and/or harassment are taken seriously and managed promptly. • Ensuring, insofar as reasonably practicable, that staff are not victimised as a result of a bullying and/or harassment complaint. • Continuing to implement and improve on measures to prevent bullying and harassment in the workplace. • Providing avenues to report inappropriate behaviour. This may include inappropriate behaviour which is experienced or witnessed. • Providing access to Employee Assistance Programs (EAP). • Storing official records of complaints of bullying and/or harassment separately to personnel files and maintaining records in accordance with the <i>State Records Act 1998</i>. <p>Induction into Transport</p> <ul style="list-style-type: none"> • Making all staff aware of the Code of Conduct and behavioural requirements outlined in this Policy, in particular that bullying and harassment is unacceptable and will not be tolerated before and/or upon entry into the organisation. <p>During the employment lifecycle</p> <ul style="list-style-type: none"> • Establishing clear, fair and robust governance and processes across all aspects of people management. • Inclusion of our values in performance management agreements and reviews. • Regular reporting and prevention strategy implementation through the Human Resources Business Partners. • Consultation with stakeholders and subsequent reviews of this Policy and all people-related policies and procedures.

Accountability	
	<ul style="list-style-type: none"> • Ensuring, insofar as reasonably practicable, that staff are treated with dignity and respect to promote a positive view of our workplace behaviour and culture. <p>Staff exit</p> <ul style="list-style-type: none"> • Implementing measures to seek feedback and capture contributing workplace behaviour factors to staff exits.
Managers	<ul style="list-style-type: none"> • Raising awareness and promoting acceptable standards of behaviour. Effective measures may include regular inclusion of our values in team meetings, coaching discussions and 'toolbox talks'. • Demonstrating leadership by proactively modelling positive behaviours and an interest in staff to support an inclusive culture that recognises good performance. • Applying policies and procedures to support an inclusive, fair and equitable workplace free from bullying and harassment. • Ensuring, insofar as reasonably practicable, that staff understand their responsibilities under the Code of Conduct, policies and how these documents can be accessed. • Treating instances of bullying and harassment seriously and dealing with complaints promptly, fairly, impartially and confidentially. • Providing staff with timely, honest and constructive feedback on performance. • Actively promoting and supporting the organisation's bullying and harassment prevention strategies. • Monitoring and taking appropriate early intervention in regard to workplace 'hotspots', for example sudden increases in sick leave, decrease in performance, observed increase in workplace arguments and friction and observed changes in staff behaviour. • Observing and promoting our values when undertaking recruitment and selection activities.
All staff	<ul style="list-style-type: none"> • Respecting the rights of others and not becoming involved in or encouraging bullying, harassment or inappropriate behaviour. • Being responsible for their own behaviour and how their actions may impact others and stopping the behaviour if they become aware it may be perceived as bullying and/or harassment. • Communicating and treating others with respect and courtesy. • Maintaining confidentiality if involved in a complaint. • Seeking advice, support and assistance from their manager, one up manager and/or HR Advisory if bullying or harassment is experienced or witnessed.

Accountability	
	<ul style="list-style-type: none"> • Are encouraged to report instances of bullying or harassment to managers when it is safe to do so. • Complying with the Code of Conduct, this Policy, associated procedures, and relevant legislation.
Workplace Conduct & Investigations Unit	<ul style="list-style-type: none"> • Supporting the management of reports of bullying and harassment promptly, fairly, impartially, sensitively and confidentially, in accordance with this Policy and associated procedures. • Working with, and supporting agencies to investigate reports of bullying and harassment matters. • Monitoring and reporting on the frequency and trends of bullying and harassment across Transport, to aid in the development of strategies to minimise instances of bullying and harassment.
HR Advisory	<ul style="list-style-type: none"> • Responding to staff enquires on this Policy and associated procedures. • Providing initial advice to staff who report matters of bullying and/or harassment. • Triaging staff enquires prior to escalating matters to WCIU if required.
Organisational Development	<ul style="list-style-type: none"> • Conducting relevant bullying and harassment awareness and management briefings and/or training across Transport to ensure all staff are aware of their responsibilities in relation to appropriate workplace behaviour, and their obligations to prevent and eliminate inappropriate behaviour. • Ensuring, insofar as reasonably practicable, that management development programs raise awareness of managers' responsibilities regarding bullying and harassment. • Establishing induction programs and other appropriate training to provide information about staff obligations regarding bullying and harassment.

Each Transport agency is accountable for the implementation and monitoring of this Policy, for example ensuring systems are in place to:

- make this Policy available to all persons in the agency impacted by it;
- ensure that any individuals or organisations that must observe this Policy as a result of a contract or other agreement with the agency are advised; and
- monitor implementation.

4 Breaches of This Policy

Staff found to have engaged in bullying, harassment and/or victimisation of colleagues, customers or others, in or outside the workplace will be in breach of the Code of Conduct and this Policy.

Transport may commence disciplinary action if a person to whom this Policy applies breaches this Policy (or any of its related procedures) up to and including termination of employment or contract.

5 Document History

Date & Policy No	Approved by	Amendment Notes
8 July 2014 Policy No. CP14023	Secretary	Policy approved.
3 November 2016 Policy No. CP14023.1	Executive Director Group Human Resources	Amended to reflect title changes within People and Corporate Services Amended to reflect organisational changes under Transport: removal of RailCorp, Transport Cleaning Services and WestConnex from Policy coverage
3 July 2017 CP14023.2	Deputy Secretary People and Corporate Services	Amended to reflect GSELA Amended Sections 1.1,2.1,2.2,2.3,3 and 6
1 July 2018 CP14023.3	Secretary	Inclusion of Sydney Metro as agency to which this policy applies from 1 July 2018.
29 July 2019 CP14023.4	Chief People Officer	Updates to obsolete job titles, Division/Branch name and template changes to front page.
11 February 2020 CP14023.5	Chief People Officer	Removal of RMS as an Agency to which this Policy applies (update to front page).
15 December 2020 CP14023.6	Chief People Officer	Update to 1.1 Definitions – ‘Discrimination’: replaced the term <i>sexual preference</i> with <i>sexual orientation</i> .

6 Attachments

The table below lists the documentation that supports this Policy.

Title	Agency
Discrimination Free Workplace Policy	Transport
Use of Social Media Policy	Transport
Code of Conduct	Transport
Responding to Bullying and Harassment Procedure	TfNSW
Dignity and Respect in the Workplace Procedure	Sydney Trains
Discrimination Free Workplace Procedure	Sydney Trains

Title	Agency
Responding to Bullying and Harassment Procedure	NSW TrainLink
Workplace Professionalism and Conduct Policy	RMS
Discrimination, Bullying and Harassment Prevention and Management Procedure	RMS
Guidelines on Managing Conduct and Performance	STA
Harassment, Discrimination and Workplace Bullying Prevention Procedure	STA
Grievance Resolution Procedure	STA
<u>Work Health and Safety Act 2011</u>	
<u>NSW Anti-Discrimination Act 1977</u>	
<u>Fair Work Act 2009</u>	
<u>Public Interest Disclosures Act 1994</u>	
<u>Workers Compensation Act 1987</u>	
<u>Industrial Relations Act 1996</u>	