

# Freedom from Harassment Policy

---

## Contents

1. Purpose.....	1
2. Application of this policy.....	2
3. Definitions.....	2
3.1. Forms of Workplace Harassment.....	2
3.2. Examples of behaviours that can be harassment.....	3
3.2.1. Sexual harassment.....	3
3.2.2. Disability Harassment.....	3
3.2.3. Racial Harassment.....	4
3.2.4. Sexuality-Based Harassment.....	4
3.2.5. Gender-Based Harassment.....	4
3.2.6. Age-Based Harassment.....	5
3.3. What discrimination and harassment is not .....	5
4. Policy .....	5
5. Procedure .....	5
6. Responsibilities .....	6
6.1. Responsibilities of MSA Executive .....	6
6.2. Responsibilities of Managers and Supervisors .....	6
6.3. Responsibilities of Workplace Participants .....	6
7. Related Policies and Procedures .....	6
8. Related Legislation .....	7
9. Version History .....	7

## 1. Purpose

- 1.1. This policy is designed to ensure that MSA complies with all of its obligations under relevant legislation, and to ensure all MSA employees enjoy a safe work environment. This document is to be read in conjunction with any relevant industrial agreement.

## 2. Application of this policy

- 2.1. This policy applies to the following persons, collectively referred to in this policy as 'workplace participants':
- a) all prospective and current full-time, part-time and casual employees of MSA;
  - b) all volunteers engaged by MSA;
  - c) all agents and contractors engaged from time to time by MSA
  - d) all office bearers and members of MSA bodies
- 2.2. This policy is not restricted to the workplace or work hours. The obligations in this policy are also applicable to any work related events or functions. A "work related event or function" means any event or function that is connected to MSA. These may include, for example, on-campus MSA events, conferences, work lunches, Christmas parties. All workplace participants are expected to comply with this policy at work related events or functions.

## 3. Definitions

### 3.1. Forms of Workplace Harassment

- 3.1.1. Workplace harassment or bullying may include:
- a) physical or verbal abuse;
  - b) excluding or isolating a person from normal work interaction, training and development or career opportunities, unreasonable "administrative sanctions" e.g., undue delay in processing applications for training, leave or payment of wages;
  - c) psychological harassment such as unexplained job changes and meaningless tasks, assigning tasks beyond a person's skills, failure to give credit where due;
  - d) intimidation – for example using unwarranted threats of disciplinary action;
  - e) repeated threats of dismissal or other severe punishment for no reason;
  - f) giving a person an impossible job or deadline; sabotaging someone's work by deliberately withholding vital information or resources; hiding documents or equipment, not passing on messages, or creating a situation of 'under-work' with a feeling of uselessness;
  - g) maliciously excluding or isolating a person from work activities;
  - h) unacceptable aggressive manner from the manager / supervisor;
  - i) insulting messages or gestures, such as leaving offensive messages on email or on the telephone;
  - j) inappropriate use of discussion boards and interactive chat rooms;
  - k) humiliating a person through gestures, by using sarcasm, belittling someone's opinion, patronising or intimidating remarks;
  - l) spreading misinformation or malicious rumours;
  - m) constant criticism or insults;
  - n) manipulating the impression of others to split the work group into taking sides;
  - o) displaying written or pictorial material which may degrade or offend certain employees;
  - p) spreading gossip or false, malicious rumours about a person with an intent to cause that person harm

## 3.2. Examples of behaviours that can be harassment

### 3.2.1. Sexual harassment

3.2.1.1. Sexual harassment is unwelcome sexual behaviour, which could be expected to make a person feel offended, humiliated or intimidated. It can be physical, verbal or written. It can include:

- comments about a person's private life or the way they look
- sexually suggestive behaviour, such as leering or staring
- brushing up against someone, touching, fondling or hugging
- sexually suggestive comments or jokes
- displaying offensive screen savers, photos, calendars or objects
- repeated requests to go out
- requests for sex
- sexually explicit emails, text messages or posts on social networking sites

3.2.1.2. Sexual harassment is covered in the workplace when it happens:

- at work
- at work-related events
- between people sharing the same workplace
- between colleagues outside of work

3.2.1.3. Sexual harassment is against the law and some types of sexual harassment can also be a criminal offence. These include indecent exposure, stalking and sexual assault, as well as obscene or threatening phone calls, letters, emails, text messages and posts on social networking sites.

3.2.1.4. A single incident is enough to constitute sexual harassment – it doesn't have to be repeated.

### 3.2.2. Disability Harassment

3.2.2.1. In Victoria it is against the law to discriminate against someone because of a disability they have, or that people think they might have.

3.2.2.2. The term 'disability' is broad and includes physical, intellectual, psychiatric, sensory, neurological and learning disabilities, including work-related injuries. The law protects people who have had a disability in the past and those who may have a disability in the future.

3.2.2.3. In Victoria, if you have a disability it is also against the law to discriminate against you because you have:

- an assistance aid, such as equipment including a palliative or therapeutic device
- someone who is assisting you, for example, an interpreter or a reader
- an assistance dog.

3.2.2.4. Examples of harassment may include:

- a) humiliating comments or action about a person's disability, such as insults
- b) comments or action which create a hostile environment
- c) overbearing or abusive behaviour towards staff with intellectual disabilities
- d) disparaging remarks to staff who have made compensation claims

### **3.2.3. Racial Harassment**

3.2.3.1. Racial harassment is any behaviour which is reasonably likely to 'offend, insult, humiliate or intimidate' and can consist of behaviour which negatively comments on a person's race, colour, nationality, accent or ethnic origin.

Examples include:

- a) Racially oriented ridicule, e.g. derogatory reference to physical features, skin colour or cultural and religious observances or imitating someone's accent;
- b) Displaying or circulating racist cartoons or literature or writing racist graffiti;
- c) Isolation or segregation on the basis of race or ethnicity; and
- d) Wearing racist symbols (such as badges) or clothing with racist slogans in public.

### **3.2.4. Sexuality-Based Harassment**

3.2.4.1. Harassment under the grounds of sexuality covers those who are heterosexual, lesbian, gay or bi-sexual. Vilification is also prohibited on the basis of sexuality or gender identity. Examples include:

- a) Using derogatory language on the phone, in person or in online discussions to describe a person based on their sexuality or their sexual preference;
- b) Using posters in public places to abuse people because of their sexuality;
- c) Websites inciting hatred of people who are gay or lesbian, or deriding people on the basis of their sexuality in public meetings.

### **3.2.5. Gender-Based Harassment**

3.2.5.1. Harassment of a gender-based nature is defined as negative comments or behaviour about a person in regards to the gender they self-identify with, as well as the reinforcement of harmful stereotypes relating to gender. It can include behaviour such as:

- a) Telling someone to use a toilet that doesn't fit with that person's self-identified gender;
- b) Suggesting that members of a gender are not as good at tasks as members of another gender;
- c) Deliberately using pronouns that do not agree with the person's self-identified gender;
- d) Assuming body type or physical characteristics about someone due to their appearance.

### 3.2.6. Age-Based Harassment

- 3.2.6.1. Age-based harassment consists of negative references resulting from stereotypes of what people are capable of doing at a particular age. It may include:
- a) Derogatory remarks about a person's age, mental and physical capabilities and appearance;
  - b) Patronising or humiliating someone because of their age;
  - c) Isolation or segregation based on someone's age;
  - d) Circulating ageist cartoons or literature, displaying offensive age related material on walls, online or on computer screens.

### 3.3. What discrimination and harassment is not

- 3.3.1. Managers have responsibilities to manage and supervise their employees, particularly with regard to unsatisfactory performance of duties. Such comment and advice may include critical statements and feedback along with monitoring and review of work performance.
- 3.3.2. The act of correcting employees and volunteers, pointing out areas for improvement, invoking performance counselling or misconduct procedures does not in itself constitute harassment.
- 3.3.3. Managers, supervisors have a responsibility to establish and maintain a workplace free from harassment by offering constructive and legitimate advice and comment in a way that does not demean or humiliate employees or volunteers.

## 4. Policy

- 4.1. MSA is actively committed to protecting the rights of both clients and workplace participants to achieve their full potential in an environment which values and affirms diversity and is free from discrimination, harassment, victimisation and vilification. MSA will take all reasonable steps to ensure that workplace participants and clients will be treated fairly and with dignity and respect whilst working or receiving services at MSA.
- 4.2. As outlined in the [Code of Conduct](#) and other policies, individuals are responsible for making themselves aware of and adhering to MSA policy on all forms of discrimination and harassment.
- 4.3. Discrimination and harassment will not be tolerated at MSA under any circumstances and may in fact be unlawful under State or Commonwealth law.

## 5. Procedure

- 5.1. Under federal and state legislation, it is unlawful to harass someone based on any of the attributes specified under the anti-discrimination or human rights legislation.
- 5.2. Workplace participants who believe they have been the victim of harassment can inform their manager or make a complaint. Details of how to lodge a complaint and how complaints will be handled are outlined in the [MSA Complaint Handling Procedure](#).

## 6. Responsibilities

### 6.1. Responsibilities of MSA Executive

6.1.1. It is the responsibility of MSA Executive to ensure that:

- a) All management group members and workplace participants are aware of their obligations, responsibilities, and rights in relation to the prevention of unlawful discrimination, harassment etc.
- b) Any matter which does not comply with these principles is identified and addressed as promptly and sensitively as possible
- c) Ongoing support and guidance is provided to all workplace participants in relation to these principles and practice.
- d) Education and training campaigns are conducted within MSA to eliminate discrimination and harassment;
- e) Advice is provided to managers and supervisors on discrimination and harassment;
- f) Advice is provided to workplace participants on discrimination and harassment;
- g) They nominate external Mediators and Investigators for inclusion on the approved list of external Mediators and Investigators;
- h) All documentation pertaining to complaints is kept secure and confidential;

### 6.2. Responsibilities of Managers and Supervisors

6.2.1. Managers, supervisors have a particular responsibility to:

- a) Ensure that their workplace is free from discrimination, bullying and harassment;
- b) Inform all workplace participants and clients clearly of what is and is not acceptable behaviour and advise that if claims of discrimination, harassment, victimisation or vilification are substantiated, then disciplinary procedures may be invoked;
- c) Inform workplace participants and clients names of how to resolve informal complaints.
- d) Inform workplace participants and clients who experience discrimination and harassment of their rights and provide them with the appropriate policy and procedures to resolve their concerns;
- e) Ensure that the workplace participant or client not be made to feel that they should take certain action, or no action because of their responsibility to other workplace participants or other clients;
- f) Ensure that workplace participants and clients who make a complaint are not victimised for doing so and respect their privacy and confidentiality at all times;
- g) Ensure that the policies and procedures in relation to the resolution of a grievance/complaint are followed as written;
- h) Seek appropriate assistance from the Executive Management when required.

### 6.3. Responsibilities of Workplace Participants

6.3.1. Individual workplace participants and clients have a responsibility to:

- a) Not to participate in discriminatory, harassing or victimising behaviour within the workplace and to behave in a respectful, tolerant and equitable manner to all members of the MSA community.

## 7. Related Policies and Procedures

[Anti-Bullying Policy](#)

[Code of Conduct](#)

[Complaints Handling Procedures](#)

[Equal Opportunity Policy](#)

[Occupational Health and Safety Policy](#)

## 8. Related Legislation

There are seven main pieces of Equal Opportunity and Anti-Discrimination legislation that apply to all public and private sector Victorian employers. MSA acknowledges its obligations under Equal Opportunity and Anti-Discrimination legislation including, but not limited to:

- [Charter of Human Rights and Responsibilities Act 2006 \(Victoria\)](#)
- [Human Rights and Equal Opportunity Commission Act 1986 \(Commonwealth\)](#);
- [Equal Opportunity for Women in the Workplace Amendment Act 2012](#) ;
- [Equal Opportunity Act 2010 \(Victoria\)](#);
- [Racial and Religious Tolerance Act 2001 \(Victoria\)](#) ;
- [Sex Discrimination Act 1984 \(Commonwealth\)](#);
- [Racial Discrimination Act 1975 \(Commonwealth\)](#) ;
- [Disability Discrimination Act 1992 \(Commonwealth\)](#) ;
- [Fair Work Act 2009 \(Commonwealth\)](#).

## 9. Version History

### ***Current Version***

Author: Jennifer Gibson  
MSC Approval: 16/2014; 17/12/2014  
Review Date: December 2016

### ***Prior Versions***

Author: TL Consult  
HR Subcommittee Approval: 18/06/2012  
MSC Approval: 3/2012; 29/06/2012  
Review Date: June 2014