

# **IPC Dignity and Respect Policy**

**December 2020**

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## 1. Purpose

It is the responsibility of all employees to contribute to the ongoing achievement and maintenance of a workplace free from bullying, harassment, discrimination and work-related violence.

This policy aims to alert all employees to the types of behaviours considered inappropriate by the Information and Privacy Commission (IPC). It outlines the responsibilities of employees and managers to achieve and maintain a workplace where everyone is treated with dignity and respect.

It highlights the benefits of a workplace free from inappropriate behaviour and the potential negative impact if inappropriate workplace behaviour does occur.

## 2. Policy Statement

The IPC is committed to creating a workplace culture where all employees are treated with dignity and respect, so that everyone is able to contribute their best and create a positive environment in the workplace.

It is the responsibility of all employees to contribute to the ongoing achievement and maintenance of a workplace free from bullying, harassment, discrimination and work-related violence.

The IPC has adopted a policy of 'zero tolerance' to inappropriate workplace behaviour including bullying, harassment, discrimination and work-related violence.

## 3. Impact of inappropriate workplace behaviours

The impact of inappropriate workplace behaviours may be quite significant and may affect the individual employee, their business unit and the IPC.

From an individual's perspective, some negative impacts include:

- reduced work performance and productivity
- health impacts such as anxiety, depression, loss of self-confidence and self-esteem
- disruptions to personal life and relationships with partners, family members and friends.

At the level of the business unit, some of the negative impacts of inappropriate workplace behaviour include:

- employees not feeling comfortable in reporting matters or resolving workplace issues. The problems may then become larger and have a greater negative impact if they are allowed to continue

employees not feeling like poor performance or behaviour is managed properly resulting in a feeling that the workplace is unfair

- poor communication and cooperation between managers and employees
- poor client service delivery and a potential increase in client complaints
- an increase in sick leave
- an increase in workplace accidents with its inherent disruptions to workflow and potential workers compensation claims.

For the IPC, inappropriate workplace behaviour has negative impacts on the organisation which may include:

- increased employee turnover and the associated loss of valuable corporate knowledge and experience
- poor morale

- potential legal action against the IPC and the perpetrator of such inappropriate workplace behaviours.
- damage to the IPC's reputation.

## 4. Responsibilities

The IPC has a duty of care to its employees to ensure a workplace environment that is safe and healthy, where all employees are treated with dignity and respect, and where inappropriate workplace behaviours are dealt with appropriately, fairly and promptly.

### 4.1 Responsibilities of all employees

All employees are expected to treat each other with dignity and respect, irrespective of rank or level within the IPC, or whether they are permanent full-time or part-time, temporary, casual or contractors. Employees are also expected to treat clients of the IPC with dignity and respect.

Specific responsibilities of every employee to be reinforced under this policy are to:

- ensure they understand and behave according to the standards of appropriate behaviour in the workplace, in accordance with the IPC's Code of Conduct and other relevant policies
- avoid engaging in inappropriate workplace behaviour or joining others who behave inappropriately
- resolve any workplace issues or misunderstandings promptly and appropriately
- cooperate in an honest and constructive manner with a manager or supervisor in resolving issues involving inappropriate workplace behaviour, including any formal grievance process, where necessary
- seek help, advice, or guidance, where necessary, to ensure their own workplace behaviour is not inappropriate.

### 4.2 Responsibilities of managers and supervisors

In addition to the responsibilities of employees, as outlined above, managers and supervisors have the responsibility to:

- ensure employees know the standards of appropriate behaviour in the workplace, in accordance with the IPC's Code of Conduct
- deal promptly and appropriately with reported or observed incidents of inappropriate workplace behaviour
- advise employees who have been subjected to inappropriate workplace behaviour, about the avenues available for resolving their issue, including lodging a formal grievance, where appropriate
- provide an employee who has made a complaint about inappropriate workplace behaviour, with the necessary assistance and support to resolve their issue
- provide employees who behave inappropriately with the necessary support or guidance to help ensure they behave appropriately.

## 5. Workplace bullying

The IPC will not tolerate bullying. Any employee found to be bullying another employee or group of employees is in breach of this policy and may be subject to management action including disciplinary action.

Workplace bullying is repeated and unreasonable behaviour directed towards an employee or a group of employees that creates a risk to health and safety (*Work, Health and Safety Act 2011*).

Examples of potential unreasonable behaviour include:

- offensive language or comments
- unjustified criticism
- deliberately excluding someone from workplace activities
- withholding information that is needed for work.

Bullying can often be identified by all of the following four criteria:

1. It is repeated
2. It is unwelcome and unsolicited
3. The recipient/s considers the behaviour to be offensive, intimidating, humiliating or threatening
4. Based on the available information, the behaviour would be considered offensive, intimidating, humiliating or threatening to the individual it is directed at, or by others who are witness to or affected by the behaviour.

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.

Feedback or counselling on work performance or behaviour is intended to assist staff improve work performance and standards of behaviour. The performance management process requires two-way communications that clearly explain the work employees are expected to do. This involves providing constructive feedback to employees on their work performance.

Bullying does not necessarily involve intent. Sometimes a 'bully' may be totally unaware that their behaviour is harmful to others.

Bullying behaviour may be obvious and aggressive, including:

- verbal abuse such as yelling, shouting or screaming at someone, or using threatening or derogatory language, often when other employees are present
- physical acts such as banging a fist on a table, shoving or standing over someone
- encouraging other employees to participate in bullying behaviour
- malicious rumours, gossip, or innuendo
- leaving offensive messages on email, telephone voicemail, SMS or on the internet
- speaking in an insulting tone
- constant ridicule of a colleague, particularly when others are present
- targeting practical jokes at someone.

Workplace bullying may also be subtle and may include behaviour such as:

- deliberate exclusion of a worker from normal workplace activities
- interference with personal property or work equipment
- intimidation by inappropriate personal comment, belittling opinions or unjustified criticism
- offensive jokes, either by spoken word or email
- ignoring, isolating or segregating an employee.

Behaviour that treats some people less favourably, or is disempowering, may also amount to bullying. Such behaviour includes:

- assigning meaningless tasks to an employee, which are unrelated to their job
- setting tasks that are unreasonably above or below an employee's ability
- deliberately changing work arrangements, such as rosters and leave, to inconvenience a particular employee or employees
- deliberately setting timelines that are impossible to achieve
- deliberately denying access to information, consultation or other resources
- unreasonably blocking promotion, training, development or other work opportunities
- excessive and unreasonable work scrutiny
- removing areas of responsibility without cause nor explanation.

Workplace bullying may occur at any time when carrying out work related duties or activities, which includes workplace related social events.

## 6. Harassment

The IPC will not tolerate harassment. Any employee found to be harassing another employee or group of employees is in breach of this policy and may be subject to management action including disciplinary action.

Under NSW anti-discrimination law, harassment is any form of behaviour that:

- is not wanted
- offends, humiliates or intimidates and
- targets a person because of that person's sex, pregnancy, race, age, marital status, homosexuality, disability, transgender status or carer's responsibilities.

Harassment does not need to be repeated behaviour. Sometimes a single incident is enough to be regarded as harassment.

Workplace harassment may involve behaviours or incidents, in certain circumstances:

- offensive material such as graffiti, pictures, internet websites or posters that are displayed in the workplace
- offensive emails
- verbal abuse or comments
- imitating an employee's accent or cultural habits
- imitating an employee's disability
- offensive jokes
- gossip and innuendo
- offensive physical gestures or unnecessary physical contact such as slapping, poking, shoving or hugging
- ignoring, isolating or segregating an employee
- stalking or persistently following an employee
- intrusive questions about an employee's personal life.

Harassment can occur if:

- an employee or group of employees might harass another employee or group of employees

- a manager might harass an employee
- an employee might harass a manager
- a client or customer might harass an employee.

## 7. Sexual harassment

The IPC will not tolerate sexual harassment. Any employee found to have sexually harassed another employee is in breach of this policy and will be subject to management action including disciplinary action.

Under NSW anti-discrimination law, sexual harassment is any form of sexually related behaviour that:

- is unwelcome and
- having regard to all the circumstances, a reasonable person would have anticipated that the behaviour would have offended, humiliated or intimidated another person.

Sexual harassment does not need to be repeated behaviour. A single incident may be enough to be regarded as sexual harassment.

Examples of sexual harassment may include:

- staring or leering in a sexual manner
- sexual or physical contact, such as kissing, touching or hugging
- intrusive questions about sexual activity
- unwelcome 'wolf whistling'
- sexual advances, invitations or requests for sexual favours
- initiation ceremonies that involve unwelcome sexual behaviours
- distributing emails with sexual content
- displaying internet sites with sexual content on a computer
- having pictures or posters at the workplace, including lockers, of a sexual nature.

Serious sexual harassment could also be regarded as sexual assault and may be treated as a crime under the *Crimes Act 1900*.

## 8. Discrimination

Discrimination is an unacceptable behaviour within the IPC. Any employee found to be engaging in unfair and discriminatory behaviour is in breach of this policy and may be subject to management action including disciplinary action.

Discrimination occurs when someone is treated unfairly because they happen to belong to a particular group of people or have a particular characteristic.

In NSW many types of discrimination are against the law. The laws dealing with discrimination help give everyone in NSW an equal chance.

The grounds of unlawful discrimination covered by NSW legislation (Anti-Discrimination Act<sup>1</sup>) are:

- race – when you are treated unfairly or harassed because of your race, colour, ethnic background, ethno-religious background, descent or nationality
- age – when you are treated unfairly or harassed because of your age such as people thinking you are too old, too young or middle-aged

- sex or gender – when you are treated unfairly or harassed because you are a woman or because you are a man
- pregnancy – when you are treated unfairly or harassed or not given the same opportunities because you are pregnant
- disability – when you are treated unfairly or harassed because you have a disability, or someone thinks you have a disability. It is also against the law to treat you unfairly or harass you because you had a disability in the past, or because you will or may get one in the future. Disability includes physical, intellectual and psychiatric disabilities, learning and emotional disorders, and any organism capable of causing disease (for example, HIV)
- marital status – when you are treated unfairly or harassed because of your particular marital status; for example, because you are single, or married, or living in a de facto relationship
- homosexuality (gay or lesbian) – when you are treated unfairly or harassed because you are lesbian or gay, or someone thinks you are lesbian or gay
- transgender status – when you are treated unfairly or harassed because you are transgender or others think you are transgender. You are counted as transgender if you live or seek to live as a member of the opposite gender (sex) to your birth gender
- carer's responsibilities – when you are treated unfairly or harassed during the course of your employment, because you are responsible, or thought to be responsible, for the care or support of one or more people
- by association – when you are treated unfairly or harassed because of the sex, pregnancy, race, age, marital status, homosexuality, disability, transgender status or carers' responsibilities of one of your relatives, friends or work colleagues
- sexual harassment – when you are subjected to sexually related behaviour that you do not want, and a reasonable person would have expected you to be offended, humiliated or intimidated.

The additional grounds of unlawful discrimination covered by federal legislation include religion, political opinion and industrial activity.

Discrimination may be direct or indirect. Direct discrimination occurs when someone is treated unfairly compared to someone else in the same or similar circumstances, because of their sex, pregnancy, race, age, marital status, homosexuality, disability, transgender status or carers' responsibilities. For example, if an employer will not employ someone just because they are a woman this is likely to be direct sex discrimination.

Indirect discrimination differs from direct discrimination. Indirect discrimination occurs when a requirement or rule is applied to everyone, but that same rule has an effect or result that is unequal and unreasonable for the members of one group over another.

## 9. Violence

The IPC will not tolerate workplace violence. Any employee found to be engaged in violent behaviour in the workplace is in breach of this policy and may be subject to management action including disciplinary action.

Violence is a serious work, health and safety 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 employee is physically attacked or threatened, or subjected to aggression in the workplace. Violence and aggression includes verbal and emotional abuse or threats, or a physical attack to an individual or to property by another individual or group.



The impact of violence on a victim depends on the severity of the violence, his or her own experiences, personality and other factors (*Work, Health and Safety Act 2011*).

Examples of workplace violence include:

- physical acts such as:
  - striking, kicking, scratching, biting or spitting
  - attacking with any type of weapon
  - pushing, shoving, tripping or grabbing
  - throwing objects
- written abuse
- verbal abuse, in person or over the telephone
- threatening to commit a violent act
- robbery with physical violence or threats of physical violence, including armed robbery
- bomb threats
- malicious damage to property of employees, customers or the IPC.

Workplace violence may not start as a critical or extreme situation but sometimes follows a pattern of escalating behaviour. It may start with agitation, expressed anger, frustration and intimidating body language, then escalate to verbal or written abuse and threats, physical threats, or assault.

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

All acts of violence in the workplace must be reported.

## 10. Victimisation

Victimisation is an unlawful act under s.50 of the *Anti-Discrimination Act 1977* (NSW) and also under the *Public Interest Disclosures Act 1994*. The IPC will not tolerate victimisation within the workplace.

Under the *Anti-Discrimination Act 1977* (NSW), it is unlawful for a person (the discriminator) to subject another person (the person victimised) to any detriment, and in any circumstances, on the grounds that the person victimised has:

- brought proceedings against the discriminator or any other person under the *Anti-Discrimination Act 1977*
- given evidence or information in connection with proceedings brought by any person against the discriminator or any other person under the *Anti-Discrimination Act 1977*
- alleged that the discriminator or any other person has committed an act which, whether or not the allegation so states, would amount to a contravention of the *Anti-Discrimination Act 1977*
- otherwise done anything under, or by reference to, the Act in relation to the discriminator or any other person
- or by reason that the discriminator knows that the person victimised intends to do any of the above things, or suspects that the person victimised has done, or intends to do, any of them.

A public interest disclosure is the reporting of maladministration or corrupt conduct or waste of public money, perpetrated by an employee of a public authority. For protected disclosure you can report:

- a) corrupt conduct to the Independent Commission Against Corruption
- b) maladministration to the NSW Ombudsman
- c) substantial and serious waste of public money to the Auditor General
- d) or by other means set out in the *Public Interest Disclosures Act 1994*.

It is against this policy and an offence under the *Public Interest Disclosures Act 1994* to victimise a person who makes a protected disclosure. Taking detrimental action against a person that is substantially in reprisal for the person making a protected disclosure within the meaning of the *Public Interest Disclosures Act 1994* may be considered misconduct under the terms of *Government Sector Employment Act 2013*.

## 11. Communication

This policy will be communicated to all employees, via an all staff email.

## 12. Implementation

The Director, Business Improvement is responsible for the update and implementation of this policy within the IPC.

## 13. Legislative context

[Anti-Discrimination Act 1977 \(NSW\)](#)

[Crimes Act 1900 \(NSW\)](#)

[Human Rights and Equal Opportunity Act 2016 \(Cth\)](#)

[Industrial Relations Act 2016 \(NSW\)](#)

[Work Health and Safety Act 2011 \(NSW\)](#)

[Public Interest Disclosures Act 1994 \(NSW\)](#)

[Government Sector Employment Act 2013 \(NSW\)](#)

## 14. Related policies

- [IPC Code of Conduct](#)

## 15. Definitions

**Client** means any client or customer of the IPC.

**IPC** means the NSW Information and Privacy Commission.

**Business unit** means the division, unit or agency within the IPC.

**Grievance** means a complaint made under the IPC's managing workplace issues policy and procedure.

**Employee** means any permanent or temporary or casual employee of the IPC, and includes any contractor or consultant engaged by the IPC.

***Inappropriate workplace behaviours*** include bullying, harassment, discrimination, violence and victimisation as covered by this policy.

***Workplace*** means any place at which an employee or workplace participant works or otherwise attends in connection with being an employee or workplace participant including remote working.

***Workplace participant*** means an employee of the IPC, a volunteer or unpaid work experience trainee.

## 16. Consultation and organisational impact

Consultation on this policy has been undertaken within the IPC.

## Document information

<b>Identifier/Title:</b>	IPC Dignity and Respect Policy
<b>Business Unit:</b>	IPC
<b>Author:</b>	Director, Business Improvement
<b>Approver:</b>	IPC CEO
<b>Date of Effect:</b>	15 December 2020
<b>Next Review Date:</b>	15 December 2021
<b>EDRMS File Reference:</b>	D18/335702/DJ
<b>Key Words:</b>	bullying, harassment, workplace violence, dignity, respect, sexual harassment, discrimination, violence, victimisation, prevention, performance management, social functions, health, safety, workplace issues, grievance, client, manager, employee, inappropriate behaviour, WH&S, workplace, workplace participant

## Document history

Version	Date	Reason for amendment
2.0		New DoJ policy template & review
2.1	3/12/2018	DoJ policy adapted and adopted by the IPC
3.0	18/11/2020	Reviewed and updated by the IPC

<sup>i</sup> <https://legislation.nsw.gov.au/view/html/inforce/current/act-1977-048>