



# Workplace Discrimination, Harassment & Bullying

## Policy and Procedure

### 1. PURPOSE

This policy is designed to assist all team members in understanding their rights and responsibilities with regard to workplace discrimination, harassment and bullying.

### 2. SCOPE

This policy applies to all permanent, fixed term and casual staff, contractors and volunteers (team members). This replaces all workplace discrimination, harassment and bullying policies previously issued by MS Limited or its merged entities.

### 3. LEGISLATIVE CONTEXT

MS is required to comply with a wide variety of legislation which is detailed within the Acts and Standards Policy and Procedure.

### 4. POLICY

MS is committed to proactively providing a safe working environment that provides equal opportunity and is free from unlawful discrimination, harassment and bullying for all employees, volunteers and clients. MS has a commitment to diversity, which embodies sensitive and ethical appreciation and recognition of differences, encouraging inclusiveness, participation and diversity.

Those in scope of this policy must comply with all relevant legislation. In particular, it should be noted that it is unlawful to engage in sexual or discriminatory harassment, bullying and victimisation under legislation relating specifically to the workplace. Serious penalties apply to breaches of such legislation.

MS aims to:

- Ensure that its structures and practices are free from unlawful discrimination, both direct and indirect.
- Provide team members with information about unlawful discrimination, discriminatory harassment, sexual harassment, victimisation and bullying.
- Ensure that its policies, procedures and official documentation and publications comply with equal opportunity and occupational health and safety principles.
- Create a working environment that promotes dignity and respect for all. No form of intimidation, bullying or harassment will be tolerated.
- Ensure training, development and progression opportunities are available to all.

### 5. PROCEDURE

| PROCEDURE |  | Responsibility      |
|-----------|--|---------------------|
| 1         | <b>Rights &amp; Responsibilities</b>   |                     |
| 1.1       | <p>All team members are entitled to:</p> <ul style="list-style-type: none"> <li>• Recruitment and selection decisions made on the basis of merit and not effected by irrelevant personal characteristics.</li> <li>• Work free from discrimination, harassment and bullying.</li> <li>• The right to raise issues or to make an enquiry or complaint in a reasonable and respectful manner (see section 3 – Issue Resolution) without being punished or victimised.</li> <li>• Reasonable consideration for flexibility or adjustments in working arrangements, especially where needed to accommodate their family and carer responsibilities, disability, religion and culture.</li> </ul> | All MS Team Members |

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|          | <ul style="list-style-type: none"> <li>• Access to EAP (Employee Assistance Program).</li> </ul>   |                        |
| 1.2      | <p>All team members must:</p> <ul style="list-style-type: none"> <li>• Treat everyone they contact in the course of their employment with dignity, courtesy and respect.</li> <li>• Offer support and referral to the victims of any discrimination, harassment or bullying that they witness.</li> <li>• Avoid gossip and respect the confidentiality of the Issues Resolution Process.</li> </ul>  | All MS Team Members    |
| 1.3      | <p>Managers and supervisors must:</p> <ul style="list-style-type: none"> <li>• Be role-models for appropriate standards of behaviour.</li> <li>• Ensure employee and volunteer recruitment decisions are based on merit, and that no discriminatory requests for information are made.</li> <li>• Take action to ensure their team members are educated and aware of their obligations under this policy and the law.</li> <li>• Intervene promptly, fairly and properly when they become aware of inappropriate behaviour.</li> <li>• Wherever possible, assist individuals in informal resolution of problems and complaints.</li> <li>• Refer formal complaints about breaches of this policy to Human Resources for investigation.</li> <li>• Act to ensure individuals who raise an issue or make a complaint are not victimised for doing so.</li> <li>• Act impartially in resolving issues and enforcing workplace behavioural standards, and ensure relevant parties have an opportunity to be heard.</li> <li>• Seriously consider and consult with team members to fairly evaluate requests for flexible working arrangements and reasonable workplace adjustments.</li> <li>• Document complaints and actions taken to resolve the complaint.</li> </ul> | Team Leaders/ Managers |
| <b>2</b> | <b>Unacceptable (Proscribed) Workplace Conduct</b>   |                        |
| 2.1      | <p>The following specific behaviours are contrary to MS policy and, in some circumstances, are also criminal offences. Any team member found to have engaged in such conduct may be counselled, disciplined or have their employment with MS terminated.</p>   | All MS Team Members    |
| 2.2      | <p><b>Discrimination</b><br/>Discrimination occurs when an individual or a group is treated unfavourably because of a personal attribute protected by law.</p> <p>Unlawful discrimination can occur:</p> <p><b>Directly</b> – when a person or group is treated less favourably than others because they have a protected attribute, compared with another person or group without that attribute.</p> <p style="padding-left: 40px;"><i>For example - a worker is refused promotion because they are “too old”</i></p> <p><b>Indirectly</b> – when an arbitrary or unreasonable system, procedure or requirement treats everyone the same, but in doing so ends up (actually or potentially) disadvantaging a person or group with an attribute protected by the law.</p> <p style="padding-left: 40px;"><i>For example – an organisation has a policy that to pass probation for office jobs, all new employees must take an eye test, even though first-rate vision is not essential for the roles. Someone with a vision impairment would fail probation as they couldn’t pass this test.</i></p>  | All MS Team Members    |

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|     | <p>Attributes protected by the law include:</p> <ul style="list-style-type: none"> <li>• Age</li> <li>• Breastfeeding</li> <li>• Disability/impairment (including genetic predisposition to disability, visible or invisible, temporary or permanent)</li> <li>• Employment activity (e.g. asking your boss about your workplace entitlements)</li> <li>• Gender identity (being transgender or intersex)</li> <li>• Industrial activity/inactivity (union membership or non-membership)</li> <li>• Irrelevant criminal record</li> <li>• Lawful political belief or activity</li> <li>• Lawful sexual activity</li> <li>• Marital status (having or not having a domestic partner)</li> <li>• Medical record</li> <li>• Physical features (including height, weight or appearance)</li> <li>• Pregnancy (including potential pregnancy)</li> <li>• Race (including language spoken at home, citizenship, country of origin)</li> <li>• Religious belief or activity</li> <li>• Sex</li> <li>• Sexual orientation</li> <li>• Social origin</li> <li>• Status as a parent or carer (with a broad and inclusive definition of both, see section 3 above)</li> <li>• Personal association or relation to another person with any of the above attributes (e.g. being related to someone with a disability). Some exclusions apply to this point.</li> </ul> <p>It is also unlawful to treat someone less favourably because you wrongfully assume they have an attribute or may develop it at some time in the future.</p> |                     |
| 2.3 | <p><b>Harassment</b></p> <p>Harassment is a type of discrimination involving unwelcome language or behaviour that, regardless of the intention of the perpetrator, could be reasonably anticipated to offend, embarrass, intimidate or threaten another person because of an attribute covered under equal opportunity law.</p> <p style="padding-left: 40px;"><i>For example - nicknames or teasing based on weight, race, sexual orientation or physical appearance</i></p> <p>Harassment can take many forms, including jokes, teasing, nicknames, emails, pictures, text messages, social isolation, ignoring people, or unfair work practices.</p> <p>Harassment can occur regardless of the intention or the formal authority of the perpetrator. It is the <b>effect</b> of the behaviour and the degree to which this effect could be reasonably anticipated that makes it harassment.</p>  | All MS Team Members |
| 2.4 | <p><b>Sexual harassment</b></p> <p>Sexual harassment is a specific and serious form of harassment. This occurs when a person makes an unwelcome sexual advance or an unwelcome request for sexual favours to another person, or engages in any other unwelcome conduct of a sexual nature in relation to another person.</p> <p>It has nothing to do with mutual attraction or private, consenting friendships whether sexual or otherwise.</p> <p>Some examples of sexual harassment include:</p> <ul style="list-style-type: none"> <li>• Persistent, unwelcome demands or even subtle pressures for sexual favours or outings.</li> </ul>  | All MS Team Members |

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|     | <ul style="list-style-type: none"> <li>• Leering, patting, pinching, touching or unnecessary familiarity.</li> <li>• Offensive comments on physical appearance, dress or private life.</li> <li>• Sending sexually explicit emails, text messages or through social media applications.</li> <li>• The public display of pornography (especially when it is directed at particular individuals), ranging from material that might be considered mildly erotic through to material that is sexually explicit.</li> </ul> <p>MS recognises that comments and behaviour which does not offend one person, may offend another. This policy requires all employees to respect other people's limits.</p> <p>Sexual harassment can occur regardless of the intention or the formal authority of the perpetrator. It is the <b>effect</b> of the behaviour and the degree to which this effect could be reasonably anticipated that makes it sexual harassment.</p>  |                     |
| 2.5 | <p><b>Bullying</b></p> <p>Bullying is <u>repeated</u>, unreasonable behaviour directed toward an individual, or group of individuals, that creates a risk to their health and safety.</p> <p>Behaviours that may constitute bullying include:</p> <ul style="list-style-type: none"> <li>• Sarcasm and other forms of demeaning language.</li> <li>• Threats, abuse or shouting.</li> <li>• Coercion.</li> <li>• Isolation.</li> <li>• Blaming.</li> <li>• "Ganging up".</li> <li>• Constant unconstructive criticism.</li> <li>• Deliberately withholding information a person needs to exercise their role or access their entitlements within MS.</li> <li>• Repeated refusal of requests for leave or training without adequate explanation or suggestion of alternatives.</li> </ul> <p>Bullying is not:</p> <ul style="list-style-type: none"> <li>• Reasonable comment, advice or administrative action (including negative feedback from supervisors or managers).</li> <li>• Performance management processes.</li> <li>• Disciplinary action.</li> <li>• Reasonable management action done in a reasonable way.</li> <li>• The implementation of organisational change.</li> <li>• Conflict or differences of opinion between individuals.</li> <li>• An <u>individual</u> incident of bullying-type behaviour.</li> </ul> <p>Bullying can occur regardless of the intention or the formal authority of the perpetrator. It is the unreasonableness of the behaviour and the degree to which it could be reasonably anticipated to create physical or mental health risks that makes it bullying.</p> | All MS Team Members |
| 2.6 | <p><b>Victimisation</b></p> <p>Victimisation occurs when someone who has raised a complaint in good faith and in a reasonable way (see Issues Resolution Procedure section 3), is then threatened, punished or suffers some other negative consequence as a result of raising that concern.</p> <p><i>For example - an employee is refused a promotion because "your complaint of harassment last year shows you are not a team player".</i></p> <p>It is victimisation to threaten or punish someone (such as a witness), who may be involved in the investigation of an equal opportunity concern or complaint.</p> <p>Victimisation is a very serious breach of this policy and is likely (depending on</p>  | All MS Team Members |

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|     | <p>the severity and circumstances) to lead to formal disciplinary against the perpetrator.</p> <p>MS has a zero tolerance approach to victimisation. Anyone who believes they have been or are being victimised should immediately report the matter to their manager or Human Resources.</p>  |                     |
| 3   | <b>Issue Resolution</b>  |                     |
| 3.1 | <p><b>Internal</b></p> <p>If you consider you have been harassed, bullied or discriminated against, <u>do not to ignore it</u>. Ignoring it might be interpreted by the other person as consent.</p> <p>Do not respond to unacceptable behaviour with more unacceptable behaviour.</p> <p>If you are angry and upset as a result of unfair treatment, MS encourages you to take some time to prepare for what to do next, or seek help from Human Resources, the Employee Assistance Program provider or your manager.</p> <p>MS recommends you try to resolve your issue using one of the following four options:</p> <p>a) <b>Self-management</b> – prepare and then make a calm, polite but firm request to the person or persons responsible for the change you need. Indicate the effect of the behaviour or decision on you and ask for an agreement about how things need to be different in the future. Sometimes it is helpful to record this agreement in writing.</p> <p>b) <b>Informal</b> – any non-disciplinary solution, such as organising training for a person or group, a conciliation or three-way meeting, asking a manager to have an informal chat with someone, asking for a decision to be reviewed by someone else. This can be arranged by talking to your manager, any other trusted manager or Human Resources.</p> <p>c) <b>Formal</b> – a formal complaint (describing what has happened and why you feel it was against this policy) can be made in writing or by email to your manager, or your manager’s manager. Where a team member is unable to provide a written complaint, a verbal statement is to be taken by an appropriate supervisor and manager (utilising interpreters where necessary), committed to writing and read back to the team member. If the team member agrees that the written account is true and correct, they will be required to sign it.</p> <p>Complaints may be made to Human Resources when approaches to your manager or manager’s manager fail.</p> <p>All complaints of discrimination, harassment or bullying will be treated quickly, seriously and sympathetically. They will be investigated thoroughly, impartially and confidentially.</p> <p>You will be interviewed, and so will the person or group you have complained about. Witnesses may also be interviewed and other evidence will be considered.</p> <p>Formal complaints cannot normally be lodged anonymously, because the person(s) you are complaining about have the right to know exactly what it is you believe they did wrong and are entitled to give their side of the story.</p> <p>The investigator of a formal complaint will compile a report using the Investigation Template which contains:</p> <ul style="list-style-type: none"> <li>• A description of the investigation process</li> <li>• A summary of your complaint</li> <li>• A summary of the response from the person or group complained</li> </ul> | All MS Team Members |

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|     | <p>about</p> <ul style="list-style-type: none"> <li>• A summary of the evidence</li> <li>• A finding of whether there was or was not a breach of policy</li> </ul> <p>Both the person who has complained and the person(s) complained about have the right to know what the finding was. The person(s) complained about will be advised of any disciplinary action which may be imposed on them. The person who has complained may be advised if the person(s) complained about will be disciplined, but will not be made aware of the level of discipline.</p> <p>Both the person who has complained and the person(s) complained about may challenge the finding. If challenged, the investigation process will be reviewed by an appropriately qualified and experienced person, which may include an external party.</p> <p>Managers must act immediately on any reports of harassment, ensuring that MS's <b>Issues Resolution Procedure - Manager Report Form</b> is completed and forwarded to the Human Resources department.</p> <p>All managers are to follow MS's <b>Issues Resolution Handling - Checklist for Managers</b> when conducting any investigation into harassment, bullying or discrimination claims, ensuring all relevant points are covered.</p> |                     |
| 3.2 | <p><b>External</b></p> <p>National anti-bullying laws started on 1 January 2014. Allegations of bullying that occurred prior to this date should be referred to relevant State or Territory Health &amp; Safety bodies.</p> <p>From 1 January 2014, employees who have experienced bullying at work can apply to the Fair Work Commission for an order to stop the bullying. Making an application to the Fair Work Commission for an order to stop bullying is a workplace right protected under the general protections provision of the Fair Work Act.</p> <p>Team members however are encouraged to seek resolution via the internal processes described in this policy prior to contacting an external body.</p>   |                     |
| 3.3 | <p><b>Outcomes</b></p> <p>Many different outcomes are possible from taking any of the options outlined above, and include:</p> <ul style="list-style-type: none"> <li>• A review of a decision</li> <li>• An agreement that the inappropriate behaviour will change or stop</li> <li>• An apology</li> <li>• Education or training for a person or group</li> <li>• Changed work practices</li> <li>• A change in policies</li> <li>• Reinstating a benefit (e.g. sick leave or training) that was denied</li> <li>• A formal warning (with a varying degree of severity)</li> <li>• Other formal discipline, such as transfer or demotion</li> <li>• Termination of employment.</li> </ul>   | All MS Team Members |

## 6. SUPPORTING DOCUMENTATION

| Forms (all forms to be reviewed at same time as policy review undertaken) | Location    |
|---|-------------|
| Issues Resolution Procedure - Manager Report Form                         | MS Basecamp |
| Issues Resolution Handling - Checklist for Managers                       | MS Basecamp |
| Investigation Template  | MS Basecamp |

## 7. KNOWLEDGE MANAGEMENT

| Staff Group | Level of knowledge required | Training source |
|-------------|-----------------------------|-----------------|
|-------------|-----------------------------|-----------------|

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|------------------|-------------------------|-----------------------------------|
| CEO              | Awareness of the Policy | Independent learning              |
| Executive        | Awareness of the Policy | Independent learning              |
| Managers         | Detailed understanding  | Independent learning & HR support |
| Front-line staff | Detailed understanding  | 1:1 with Manager                  |
| Volunteers       | Awareness of the Policy | Volunteer training                |

#### 8. COMPLIANCE MEASUREMENT

| Measure                             | Target | Frequency | Tool         | Responsibility       |
|-------------------------------------|--------|-----------|--------------|----------------------|
| Episodes of bullying and harassment | 0      | annual    | HR reporting | HR Business Partners |

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