

# Bullying Harassment and Discrimination

Version: 6

Published: 22 Jan 2024, 11:46 AM

Last edited: 22 Jan 2024, 11:45 AM

Approved: 22 Jan 2024, Tricia Vella

Next review: 23 Jan 2024

## Introduction

All Thorndale Foundation services and supports are provided in a safe, flexible and respectful environment for workers and participants free from all forms of bullying, harassment and discrimination. Thorndale is committed to supporting a 'just culture' approach. All persons engaged by Thorndale or who provide services to Thorndale in any capacity are required to treat others, including other workers and participants, with dignity, courtesy and respect. This policy outlines the protocols and expectations for preventing workplace bullying and harassment.

## Applicability

### Who

- applies at all times including when we provide services to participants and when we interact with members of the public
- applies on-site, off-site or after hours work; during work-related social functions and conferences—wherever and whenever workers may be as a result of their duties.

### When

- This Policy applies to behaviours that occur:
  - (a) in connection with the provision of services to a participant, even if it occurs outside normal working hours;
  - (b) during work activities, for example, when dealing with participants or other workers;
  - (c) at work related events, for example, at conferences and work related social functions; and
  - (d) on social media, where workers interact with colleagues, participants or their families and their actions may affect them either directly or indirectly.”

Governing regulations for this policy

-  Age Discrimination Act 2004 (Cth)
-  Australian Human Rights Commission Act 1986 (Cth)
-  Disability Discrimination Act 1992 (Cth)
-  Fair Work Act 2009 (Cth)
-  NDIS (Quality Indicators) Guidelines 2018 (Cth)
-  Racial Discrimination Act 1975 (Cth)
-  Sex Discrimination Act 1984 (Cth)
-  Work Health and Safety Act 2011 (NSW)

## 2.0 Worker rights

Every worker has the right to:

- recruitment and selection decisions based on merit and not affected by irrelevant personal characteristics
- work free from discrimination, bullying and sexual harassment
- raise issues or make an enquiry or complaint in a reasonable and respectful manner without being victimised
- reasonable flexibility in working arrangements, especially if needed to accommodate family responsibilities, disability, religious beliefs or culture.

## 3.0 Worker responsibilities to prevent bullying harassment and discrimination

To prevent bullying harassment and discrimination, worker responsibilities are to:

- follow the standards of behaviour outlined in this policy
- offer support to people who experience discrimination, bullying or sexual harassment, including providing information about how to make a complaint
- maintain and respect the confidentiality of complaint procedures
- treat everyone with dignity, courtesy and respect.

## 4.0 Key management personnel responsibilities to prevent bullying harassment and discrimination

To prevent bullying, harassment and discrimination, the responsibilities of key management personnel are to:

- management and supervisors have a specific responsibility for ensuring that all reports understand the standard of behaviour expected of them and taking action when behaviour falls below its requirements.
- take steps to educate and make staff aware of their obligations under this policy and the law
- intervene quickly and appropriately when they become aware of inappropriate behaviour
- act fairly to resolve issues and enforce workplace behavioural standards, making sure relevant parties are heard
- help staff resolve complaints informally
- refer formal complaints about breaches of this policy to key management personnel for investigation
- ensure workers who raise an issue or make a complaint are not victimised
- ensure that recruitment decisions are based on merit and that no discriminatory requests for information are made
- seriously consider requests for flexible work arrangements.

## 5.0 Unacceptable conduct

Discrimination, bullying and sexual harassment are unacceptable and unlawful under the following legislation:

- [Sex Discrimination Act 1984 \(Cth\)](#)
- [Racial Discrimination Act 1975 \(Cth\)](#)
- [Disability Discrimination Act 1992 \(Cth\)](#)
- [Age Discrimination Act 2004 \(Cth\)](#)
- [Australian Human Rights Commission Act 1986 \(Cth\)](#).

Any workers or key management personnel found to have engaged in such conduct will be counselled, warned or disciplined—severe or repeated breaches may lead to formal discipline or dismissal.

Any allegation of discrimination, bullying or harassment is an incident—follow the Manage incident process for resolution.

## 6.0 Bullying

Workplace bullying is repeated, unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety. It includes both physical and psychological risks and abuse.

Bullying behaviours can take many different forms, from the obvious (direct) to the more subtle (indirect).

The following are some examples of *direct* bullying:

- (a) abusive, insulting or offensive language or comments;
- (b) aggressive and intimidating conduct;
- (c) belittling or humiliating comments;
- (d) victimisation; and
- (e) practical jokes or initiation.

The following are some examples of *indirect* bullying:

- (a) unjustified criticism or complaints;
- (b) deliberately excluding someone from work-related activities;
- (c) withholding information that is vital for effective work performance;
- (d) setting unreasonable timelines or constantly changing deadlines;
- (e) setting tasks that are unreasonably below or beyond a person's skill level;
- (f) denying access to information, supervision, consultation or resources to the detriment of the worker;
- (g) spreading misinformation or malicious rumours; and
- (h) changing work arrangements such as rosters and leave to deliberately inconvenience a particular worker or workers.

The above examples are not an exhaustive list of bullying behaviours. They are indicative of the type of behaviours that may constitute bullying and are therefore unacceptable to Thorndale.

If you are unsure whether behaviour not provided on this list constitutes bullying and you are an employee you should contact manager in the first instance and if you have any further queries you should contact HR Manager or the CEO.

Bullying is unacceptable and may also breach workplace health and safety laws.

Single incidents of unreasonable behaviour can also present a risk to health and safety and will not be tolerated.

## 7.0 Harassment

Harassment is when a person, or a group of people, is intimidated, insulted or humiliated because of one or more characteristics. This is unlawful harassment which can be a single incident or a number of incidents over a period of time.

Harassment can include:

- telling jokes about particular racial groups
- sending explicit or sexually suggestive emails or texts (see sexual harassment)
- displaying offensive or pornographic websites or screen savers (see sexual harassment)
- making derogatory comments or taunts about someone's race or religion, gender, sexual orientation or disability
- making jokes and innuendos, or threats to a person based on their sexual orientation (see sexual harassment)
- referring to a transgender person as 'him' although she identifies as female and has asked to be addressed accordingly
- forcing a worker or participant who identifies as intersex to use separate facilities such as a unisex, gender neutral or all gender toilet
- asking intrusive questions about someone's personal life, including their disability or sex life
- creating a hostile working environment, for example, where the display of pornographic materials or crude conversations, innuendo or offensive jokes are part of the accepted culture.

## 8.0 Sexual harassment

"Sexual harassment is a specific and serious form of harassment. It is unwelcome sexual behaviour, which could be expected to make a person feel offended, humiliated or intimidated. Sexual harassment can be physical, spoken or written."

## 9.0 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.

Discrimination can occur:

directly	<p>When a person or group is treated less favourably than another person or group in a similar situation because of a personal characteristic protected by law (see list below).</p> <p>For example, a worker is harassed and humiliated because of their race</p> <p>or</p> <p>A worker is refused promotion because they are 'too old'.</p>
indirectly	<p>When an unreasonable requirement, condition or practice is imposed that has, or is likely to have, the effect of disadvantaging people with a personal characteristic protected by law (see list below).</p> <p>For example, redundancy is decided based on people who have had a worker's compensation claim rather than on merit.</p>

Protected personal characteristics under Commonwealth discrimination law include:

- a disability, disease or injury, including work-related injury
- parental status or status as a carer, for example, because they are responsible for caring for children or other family members
- race, colour, descent, national origin, or ethnic background
- age, whether young or old, or because of age in general
- gender
- industrial activity, including being a member of an industrial organisation like a trade union or taking part in industrial activity, or deciding not to join a union
- religion
- pregnancy and breastfeeding
- sexual orientation, intersex status or gender identity, including heterosexual, gay, lesbian, bisexual, transsexual, transgender, queer or questioning
- marital status, whether married, divorced, unmarried or in a de facto relationship or same sex relationship
- 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 against the law to treat someone unfavourably because you assume they have a personal characteristic or may have it at some time in the future.

## 10.0 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, sexual harassment or victimisation.

Victimisation is against the law.

It is also victimisation to threaten someone (such as a witness) who may be involved in investigating an equal opportunity concern or complaint.

## 11.0 Confidentiality

Workers should not talk with other workers, participants or suppliers about any complaint of discrimination or harassment.

Breaching the confidentiality of a formal complaint investigation or inappropriately disclosing personal information obtained in a professional role is a serious breach of this policy and may lead to formal discipline.

## 12.0 Recruitment and job selection Merit

All recruitment and job selection decisions are based on merit—the skills and abilities of the candidate as measured against the inherent requirements of the position—regardless of personal characteristics.

It is unacceptable and may be against the law to ask job candidates questions, or to in any other way seek information, about their personal characteristics, unless this can be shown to be directly relevant to a genuine requirement of the position.

## 13.0 Resolving issues

Thorndale strongly encourages any worker who believes they have been discriminated against, bullied, sexually harassed or victimised to take appropriate action by speaking to key management personnel or submitting a complaint.

## 14.0 Breach of bullying harassment and discrimination policy

- any allegation that breaches this policy is an incident—refer to the Manage incident internally process for resolution
- if bullying, harassment or discrimination has occurred the following may occur against the perpetrator:
  - prompt and corrective action including any required education / training of the perpetrator
  - appropriate disciplinary action will be taken including dismissal under Thorndale's Counselling, Discipline and Dismissal Policy - Counselling, Discipline & Dismissal or refer to the **Manage worker performance process**
- victimisation is also a serious breach of this policy and will result in formal discipline against the perpetrator
- complaints should be settled within the workplace wherever possible. However, where staff feel their complaints have not been handled properly, they have a right to approach an external authority such as the Anti-Discrimination Board
- if it is found that someone made a mischievous or untrue harassment or bullying complaint, they will be disciplined in an appropriate manner, in line with Thorndale's disciplinary procedures. If the false allegations were serious enough, this may also result in dismissal.

## 15.0 Employee Assistance Program

All Thorndale employees are entitled to access the Employee Assistance Program for free confidential counselling.

Thorndale employees and their immediate family members can contact:

Acacia EAP on 1300 364273 whose counsellors are available 24 hours per day, 7 days per week, to provide free and strictly confidential counselling advice.

## 1.0 Outcomes

The Purpose of Thorndale's Bullying, Harassment and Discrimination Policy is to formalise and communicate Thorndale's approach to bullying, harassment and discrimination. The policy demonstrates Thorndale's commitment to achieving best practice to drive stakeholder confidence.