



# Prevention of Discrimination, Harassment & Bullying Policy

---

HKRP is committed to providing a safe and healthy workplace free from unlawful discrimination, harassment, and bullying. Working relationships and standards of behaviour between employees are important workplace issues.

To ensure HKRP is capable in meeting this commitment, it requires all employees and contractors to treat each other with respect and courtesy in the workplace and refrain from unlawful behaviour.

## **Purpose**

The purpose of the Policy is to:

- Create a safe work environment free from unlawful discrimination, harassment, and sexual harassment and bullying and where all workplace participants are treated with dignity, courtesy, and respect;
- Implement awareness strategies to ensure workplace participants know their rights and responsibilities; and
- Provide a procedure for dealing with complaints of discrimination, harassment and bullying.

## **Scope**

This Policy applies to:

- All workers at our workplace;
- All employees including casuals;
- Job applicants;
- Contractors; and
- People working in the same workplace but for different employers.

This Policy covers:

- Conduct in the workplace and in situations where work is performed away from the workplace;
- Conduct in the provision of goods and services to customers and clients;
- All aspects of the employment relationship from recruitment, throughout the period of an employee's employment to termination/resignation;
- Communication through electronic means;

- Situations connected with employment such as work-related travel and social events; and
- Conduct outside of working hours where the employee's conduct has an adverse impact on HKRP, the employment relationship, or the workplace.

## **1. Discrimination and harassment**

HKRP will not tolerate unlawful discrimination or harassment in the workplace. Any employee found to have unlawfully discriminated against or harassed another workplace participant (including a customer or client) may be the subject of disciplinary action which may result in termination of employment.

### **1.1. Meaning of discrimination**

Discrimination occurs when a person or group is treated less favourably than another due to a characteristic that is protected by legislation, e.g., race, marital status, or sexual preference:

- Sex;
- Sexual preference;
- Age;
- Physical or mental disability;
- Marital status;
- Family or carer's responsibilities;
- Pregnancy;
- Religion;
- Political opinion;
- National extraction; and
- Social origin.

Unlawful discrimination can occur either directly or indirectly.

Direct discrimination is any action which specifically excludes a person, or group of people from a benefit or opportunity, or significantly reduces their chances of obtaining it because a personal characteristic, irrelevant to the situation, is applied as a barrier. That is, a person, or group of people is treated less favourably than others based on a characteristic listed as grounds for discrimination, e.g. age, sex, race, disability, or marital status.

Indirect discrimination may occur as the outcome of rules, practices and decisions, which appear to treat people equally and to be neutral however, actually have an adverse effect on a group of people or an individual, thus reducing a benefit or opportunity. Practices appear fair in form but are discriminatory in outcome.

Discrimination will not be unlawful if the requirement, rule, practice, and decisions are reasonable in the circumstances.

## **1.2. Meaning of harassment**

Harassment is described as any unwelcome and uninvited behaviour which has no appropriate workplace function, and which intimidates, humiliates, or offends another person or persons. The intention of the alleged harasser is irrelevant. What is important is what a reasonable person would think of the situation.

Harassment can be a single or repeated act of offensive behaviour.

## **1.3. Grounds for discrimination and harassment**

It is unlawful to discriminate against others in the workplace on the grounds set out below.

- Race;
- Colour;
- Sex;
- Sexual preference;
- Age;
- Physical or mental disability;
- Marital status;
- Family or carer's responsibilities;
- Pregnancy;
- Breastfeeding;
- Religion;
- Political opinion;
- National extraction;
- Social origin; and
- Gender identity and history.

## **2. Sexual harassment**

HKRP will not tolerate sexual harassment in the workplace. Any employee found to have sexually harassed another workplace participant (including customer or client) may be the subject of disciplinary action which may result in termination of employment.

### **2.1. Responsibilities of all workers**

Sexual harassment is any unwelcome conduct of a sexual nature which has the possibility of intimidating, humiliating, or offending another person or persons.

Sexual harassment is against the law. The intention of the alleged harasser is irrelevant. What is important is whether a reasonable person would have anticipated the possibility that

the other person would be offended, humiliated, or intimidated by the conduct. Workplace participants may not always realise that the behaviour constitutes sexual harassment, but they must recognise that what is acceptable to one person may not be acceptable to another.

Sexual harassment can be a single or repeated act of offensive behaviour. Sexual harassment is not behaviour which is based on mutual attraction, friendship and respect that is invited, consensual or reciprocated.

## **2.2. Examples of sexual harassment**

Sexual harassment may include:

- Physical contact: patting, pinching, groping, uninvited touching;
- Verbal comments: dirty jokes, derogatory comments, offensive telephone calls;
- Written comments: offensive emails;
- Jokes;
- Propositions: persistent demands for sexual favours or outings;
- Taking, storing, distributing, or displaying sexually explicit or other offensive material: posters, pictures, emails, photographs, text messages, graffiti;
- Accessing sexually explicit internet sites; and
- Behaviour that may also be a criminal offence, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

## **3. Vilification**

HKRP will not tolerate vilification in the workplace. Any employee found to have engaged in vilification may be the subject of disciplinary action which may result in termination of employment.

### **3.1. Meaning of vilification**

Vilification is a public act which incites, encourages, or urges others to hate, have serious contempt for, or severely ridicule, a person, or group of people because they are (or are thought to be) members of a particular group. Vilification has no justification in 'free speech'.

### **3.2. Example of vilification**

Vilification may include:

- Racial;
- Religious;
- Sexuality; and
- Gender identity.

## **4. Bullying**

HKRP will not tolerate bullying in the workplace. Any employee found to have bullied another employee or workplace participant may be the subject of disciplinary action which may result in termination of employment.

#### **4.1. Meaning of bullying**

Workplace bullying is repeated, unreasonable behaviour directed towards a worker, or group of workers which creates a risk to a worker's mental or physical health, safety, and wellbeing.

Unreasonable behaviour which a reasonable person, having regard to all the circumstances, would see as unreasonable, including behaviour that is victimising, intimidating, or threatening. Risk to health and safety includes risk to the psychological, emotional, or physical health of the person.

Repeated behaviour does not necessarily refer to repeated instances of the same type of reasonable behaviour. A pattern of behaviour involving a series of different types of unreasonable behaviour may constitute bullying.

Workplace bullying excludes reasonable management action carried out in a reasonable manner. All management have a lawful right to direct and control how work is done. This can include, allocating work, setting performance objectives, giving feedback on performance, restructuring the workplace.

People are bound to have occasional differences of opinion and these are a normal part of working life. Disagreements can leave people feeling upset, but they should not be confused with bullying behaviour.

Workplace bullying may be perpetrated by an individual who may be a work colleague, a supervisor or a person/s who is part of the work environment. Bullying can occur during normal working hours and outside the workplace where work colleagues gather in groups, including staff parties and social networking sites. It is important for all to recognise that there is a difference between acceptable behaviour socially and acceptable behaviour in the workplace.

The effect of workplace bullying can be to humiliate or intimidate an individual employee or groups of employees and may actually or potentially adversely affect their health and well-being. Bullying in the workplace can result in absenteeism, reduced staff productivity and wastage of experienced and skilled staff through resignation. Workplace bullying may also have significant social and health costs for individual employees and can affect women and men at all levels of employment.

#### **4.2. Examples of bullying behaviour**

Examples of bullying behaviour include:

- Psychological abuse which destroys self-esteem and confidence;
- Initiation practices;
- Sabotaging another's work;
- Ridiculing another's opinions;
- Unfair criticism;

- Spreading rumours;
- Targeting a person via social media tools and cyber bullying;
- Setting impossible deadlines;
- Sarcasm and other forms of demeaning language;
- Threats;
- Verbal abuse;
- Isolating or excluding a person from a work team;
- Blaming; and
- Deliberately withholding information that a person needs to exercise her or his role or entitlements within HKRP.

## **5. Victimisation**

Victimisation is the term used to describe any 'pay backs', retribution or intimidation associated with a discrimination, harassment, or bullying complaint. Victimisation refers not only to intimidation of the person making a complaint, but also to the alleged harasser or discriminator, witnesses, supporters, and those resolving or investigating any complaints. Persons found to have victimised another workplace participant will be subject to disciplinary processes.

## **6. Responsibilities**

It is the responsibility of all workplace participants to:

- Understand and comply with this Policy and to seek further information if unclear;
- Comply with the requirements of this Policy;
- Treat all workplace participants fairly and with respect;
- Not harass, sexually harass, bully, vilify, victimise or unlawfully discriminate against another workplace participants;
- Report any incidents of harassment, sexual harassment, bullying, vilification, victimisation, or discrimination that they experience or see happening around them to an appropriate manager;
- Ensure they do not victimise any person involved in a complaint of harassment or discrimination; and
- Ensure that, if involved in complaints, confidentiality is maintained.

Additional responsibilities for managers:

- Promote and develop a harassment and discrimination free work environment;
- Model appropriate behaviour;

- Ensure that all employees who report to them are aware of this Policy and the organisations expectations that they behave respectfully and tolerantly; and
- Treat all complaints seriously and follow appropriate procedures for investigating complaints of harassment and discrimination.

## 7. Consequences of breaching Policy

Any employee found to have acted inappropriately or in a manner contrary to this Policy, may be the subject of disciplinary action and if appropriate, termination of employment.

## 8. Procedure for handling harassment, discrimination and bullying issues

### 8.1. Method of handling complaints/concerns

The following procedure is designed to help address any concerns raised by employees about incidents of harassment, discrimination and bullying or other offensive workplace behaviour.

The handling of any such issues will be:

- Confidential: only the people directly involved in making or investigating a complaint will have access to information about the complaint. Other employees (e.g. witnesses) or managers may be involved only on a need-to-know basis. Any documents prepared as part of the resolution process are confidential;
- Impartial: Both sides will have a chance to tell their side of the story; and
- Timely: All complaints will be dealt with as quickly as possible in the circumstances.

### 8.2. Complaint resolution procedure

This Policy sets out complaint resolution options where employees are subject to behaviour in breach of this Policy.

The terms 'informal' and 'formal' do not relate to how serious a concern is but relate to how formal (or investigative) the process is.

**Step 1 – Self-help**, if the individual feels confident to do so, try and resolve the matter directly with the other party involved. The individual can seek information or support from their manager or HR.

**Step 2 – Informal resolution**, if the issue is unable to be resolved directly between those involved, the issue should be referred to a manager or HR for assistance to try and resolve this issue. Where appropriate, the manager or HR will try to resolve the issue informally (e.g. by talking to both parties separately or together or arranging a mediation).

**Step 3 – Formal resolution**, If self-help or informal resolution is not appropriate or not successful, a more formal approach will be necessary.

### Formal Resolution Process

The formal resolution process is a formal investigation of a complaint with the objective of establishing whether a complaint is substantiated or not. Whether a complaint is substantiated or not is determined after an investigation and consideration of the evidence. It is decided on a

balance of probabilities. That is, is it more probable than not that the conduct complained of did or did not occur, and if it did occur, does it constitute a breach of this Policy.

The complaint may be formally recorded in writing.

The steps involved in a formal complaint are usually as follows:

1. The complainant is interviewed, and the allegations are set out in writing;
2. The allegations are communicated to the respondent;
3. The respondent is given the opportunity to respond to the allegations;
4. If there is a dispute over relevant facts, statement from any witnesses and other relevant evidence may be gathered;
5. A finding is made as to whether the complaint has substance; and
6. A decision is made on a course of action to resolve the complaint.

Any investigation will be kept confidential, on a need to know basis.

HKRP may be required to investigate or take other action in relation to a complaint where serious allegations are made. This may be the case even if an individual does not want to make a formal complaint.

During a complaint resolution process, working arrangements may be altered to protect the safety and wellbeing of those involved in the complaint process.

### **8.3. Resolution**

Action taken to resolve a complaint is dependent on the circumstances involved. A range of actions could be taken to resolve a complaint; these include:

- Seek an apology;
- Seeking an undertaking that the behaviour will cease;
- Formal counselling of the respondent to the complaint;
- Mediation;
- Disciplinary action;
- Awareness training; and
- Dismissing the complaint.

### **8.4. Complaint not substantiated**

If after thorough investigation, the organisation decides there has been no breach of Policy, or we are unable to substantiate a complaint, the reasons for the decision will be explained to the parties involved.

### **8.5. Other resources**



In investigating complaints, it may be necessary for HKRP to use resources external to the organisation to help resolve the situation. These may include:

- Use of an independent investigator; or
- Use of an independent mediator.



Hitesh Patel, Director