

1 Statement of Context

Perilya is committed to providing all employees with a safe and healthy workplace free from bullying and harassment.

Bullying and Harassment of employees is an unacceptable behaviour and is a breach of company policy.

2 Statement of Purpose

This policy serves to:

- Define bullying, harassment and victimisation.
- Recognise and document the applicable legislation.
- Provide appropriate guidance to employees and line management on application of the policy to achieve an inclusive workplace.

3 Definitions

Bullying

- **Workplace bullying** is defined as *repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety.*
- **Repeated behaviour** refers to the persistent nature of the behaviour and can refer to a range of behaviours over time.
- **Unreasonable behaviour** means behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.

Single incidents of unreasonable behaviour is not considered to be workplace bullying, however it can also present a risk to health and safety and will not be tolerated.

Harassment

Harassment is any unwelcome, unsolicited, offensive, abusive, belittling or threatening behaviour directed at an individual or group because of some real or perceived attribute such as a person's sex, sexuality, ethnicity or disability which a reasonable person, having regard to the circumstances, would anticipate that the person being harassed would be offended, humiliated or intimidated.

Unlike bullying, harassment may be a single incident and is based on some characteristics of the affected person or group.

Victimisation

Victimisation means subjecting or threatening to subject a person because they have spoken-out or made a complaint.

4 Application of Policy

Bullying and Harassment against any employee by another employee is unacceptable.

Bullying and Harassment should not be confused with legitimate comments and advice regarding standards of workplace behaviour or performance given appropriately by Managers, Supervisors or co-workers.

Examples of reasonable management action:

- Setting reasonable performance goals, standards and deadlines;
- Rostering and allocating working hours where requirements are reasonable;
- Transferring a worker for operational reasons;
- Deciding not to select a worker for promotions where a reasonable process is followed and documented;
- Informing a worker about unsatisfactory work performance when undertaken in accordance with any workplace policies or agreements such as performance management guidelines;
- Informing a worker about inappropriate behaviour in an objective and confidential way;
- Implementing organisational changes or restructuring; and
- Termination of employment in cases where termination is warranted.

Provisions relating to unlawful harassment are outlined in federal and state anti-discrimination legislation.

Harassment on the following grounds is unlawful:

- Race, colour, descent, national or ethnic origin, ethno-religious background;
- Sex, pregnancy or potential pregnancy;
- Marital status;
- Disability (Physical, intellectual, psychiatric, sensory, neurological or learning disabilities and illness such as HIV/AIDS);
- Age;
- Homosexuality;
- Transgender status; and
- Carer's responsibilities.

The legislation also prohibits racial, homosexual, transgender and HIV/AIDS vilification, dismissal because of family responsibilities, and victimisation resulting from raising a complaint.

OH&S legislation prohibits any inappropriate behaviour which undermines the Company's responsibilities to provide a safe and healthy workplace.

5 Procedure

Employees who believe they have been subjected to workplace bullying and harassment are to follow these procedures:

- The complainant, wherever possible, should approach the person who they consider to be an offender privately, advise that his or her conduct or behaviour is considered unwelcome and bullying and/or harassment, and request the behaviour to stop.
- If a complainant is not comfortable raising the issue directly with the person who they consider to be an offender OR the perceived bullying and/or harassing behaviour continues after a private discussion, he or she should make a complaint regarding the alleged bullying and/or harassing to his or her Supervisor. If an employee is not comfortable raising the matter with their Supervisor, it should be referred to the Manager or Senior Manager.
- Where Supervisors receive such a complaint, they must notify the Manager as soon as possible and agree on a process of investigation.
- The alleged offender will be informed of the complaint as soon as possible, and will be given an opportunity to respond to the allegations.
- An investigation into the complaint should be undertaken immediately after a formal complaint is lodged. The investigation will generally involve discussions with the complainant, the alleged perpetrator and any witnesses to the conduct or behaviour.
- Investigations will be conducted promptly and fairly and will remain confidential. No information will be divulged to anyone who is not directly involved in the complaint or the investigation of it. This will ensure that individual reputations are protected in the event of an allegation ultimately not being proven or, alternatively, withdrawn.
- Upon consideration of all circumstances, including any explanation by the alleged perpetrator of the bullying and/or harassing, a determination will be made about the veracity of the complaint. If workplace bullying and/or harassing is found to have occurred, appropriate disciplinary action will be promptly issued to the person who is found to have breached this policy.
- Each case of bullying and/or harassing, and accordingly each investigation, will differ, however, depending upon the facts of the situation, disciplinary action ranging from individual counselling up to and including termination of employment may be issued.
- A proven incident of workplace bullying and/or harassment will be recorded separately from an employee's personnel file and this information will be retained by the Company Secretary. It will become relevant in the event of a further incident (which may lead to termination of employment).
- The notification of an intentionally false report of workplace bullying and/or harassment is considered as serious as workplace bullying and/or harassment itself, and will result in disciplinary action which may include termination of employment.
- Perilya is legally obliged to investigate all complaints of workplace bullying and/or harassment, whether they have been brought to the Company's attention formally or informally. Employees are assured that investigations will be guided by the principles of integrity and confidentiality.

6 Responsibilities

Everyone in the workplace has a duty to and can help to ensure that workplace bullying and harassment does not occur.

Management –

- Provide and maintain a work environment that is without risks to health and safety;
- Provide and maintain safe systems of work;
- Monitor the health and safety of workers and the conditions at the workplace to ensure that work related illnesses and injuries are prevented; and
- Provide appropriate information, instruction, training or supervision to the worker and other people at the workplace to allow work to be carried out safely.

Employees –

- Take reasonable care for their own health and safety;
- Take reasonable care that their personal acts or omissions do not adversely affect the health and safety of others;
- Comply with any reasonable instructions given by the management team;
- Comply with all reasonable policies and procedures of the Company, such as a workplace bullying and harassment policy.

All other people who enter the Company's workplace are expected to adhere to the same duties/responsibilities as the Company places of its employees, for example, contractors and visitors.

7 Non Compliance

- Individuals in positions of authority in the Company have an additional duty of care and must understand that failure to respond appropriately to a workplace bullying and/or harassment complaint is illegal and may give rise to heavy penalties for Perilya, Managers and/or Supervisors concerned.
- Any employee who receives a complaint of workplace bullying and/or harassment and fails to take the appropriate action in accordance with this policy will be subject to disciplinary action which may include termination of employment.

8 Relevant Legislation

- Anti Discrimination Act (NSW) 1977
- Equal Opportunity Act 1984
- Disability Discrimination Act 1992
- Equal Opportunity for Women in the Workplace Act 1999
- Human Rights and Equal Opportunity Act 1986
- Race Discrimination Act 1975
- Sex Discrimination Act 1984