

STANDARD

TITLE:	BULLYING, DISCRIMINATION AND SEXUAL HARASSMENT	DATE: 15/11/2023
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This document is not to be considered in isolation, but in relation to its position in the document hierarchy as illustrated under section heading: document hierarchy and questions.

1 ENDORSEMENTS

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Approval details			
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2 INTRODUCTION

The Code of Conduct sets out the minimum obligation to act responsibly, respectfully and with integrity in the workplace to protect the health, safety and wellbeing of all workers, directors, and customers. This standard provides more details and affirms Synergy's commitment to providing a safe and healthy workplace free from all forms of bullying, discrimination, sexual harassment and victimisation. Synergy has a zero tolerance towards any of the behaviours identified in this standard.

Everyone has a role to play in preventing and responding to these behaviours and treating each other with courtesy and respect. It is expected that this is the shared responsibility of everyone who works at Synergy.

This is consistent with our work health and safety obligations to ensure the health and safety of workers and others in our business.

2.1 Scope

This standard applies to:

- (a) all board members, employees, interns, students and contractors (collectively referred to in this standard as 'you') whilst engaged in Synergy related activity; and
- (b) Synergy related activity that occurs outside of the workplace, including but not limited to off-site work, after hours work, remote work, social functions, work-related travel, training and conferences, and in providing goods and services to our customers.

2.2 Responsibility

The manager people, strategy and planning is responsible for maintaining this standard.

2.3 Review

This document must be reviewed every two years.

3 UNACCEPTABLE BEHAVIOUR

The following types of behaviour are unlawful, unacceptable and will not be tolerated by Synergy:

- (a) bullying;
- (b) discrimination;
- (c) sexual harassment;
- (d) sex-based harassment; and
- (e) victimisation.

Breaches of this standard may lead to disciplinary action, up to and including the termination of your employment or contract.

4 DEFINITIONS

4.1 Bullying

4.1.1 What is it?

Bullying at work occurs when:

- (a) an individual or group of individuals repeatedly behave unreasonably towards a worker or group of workers of which the worker is a member; and
- (b) that behaviour creates a risk to health and safety.

The concept of repeatedly behaving unreasonably refers to the existence of persistent unreasonable behaviour, and may include a range of behaviours over time. There is no specific number of incidents required for the behaviour to be 'repeated', provided there is more than one occurrence, nor does the same specific behaviour have to be repeated.

Unreasonable behaviour is behaviour that a reasonable person, having regard to the circumstances, may see as unreasonable – it is an objective test. This includes (but is not limited to) behaviour that is victimising, humiliating, intimidating and/or threatening.

A risk to health and safety means the possibility of danger to health and safety, and is not confined to actual danger to health and safety.

Bullying can take many forms. Examples of bullying may include:

- (a) behaving aggressively;
- (b) teasing or practical jokes;
- (c) pressuring or coercing someone to behave inappropriately;
- (d) ignoring someone and/or excluding someone from work-related events or activities;
- (e) deliberately withholding information or equipment that a person needs to do their job or access their entitlements;
- (f) unjustified/unconstructive criticism or complaints; or
- (g) unreasonable work expectations or demands.

4.1.2 What is not bullying?

Reasonable management action that is carried out in a reasonable way is not bullying. This may include:

- (a) investigating concerns about work performance or behaviour;
- (b) providing constructive feedback in a professional manner or counselling that is intended to assist personnel to improve work performance or behaviour;
- (c) directing and controlling how work is done; and

- (d) implementing organisational changes.

Low level interpersonal conflict or disagreements at work may also not meet the criteria of bullying. These situations, however, should not be ignored and may require facilitated conflict resolution, mediation or other forms of intervention. Your people and capability business partner can provide further advice and guidance on available options.

4.2 Discrimination

4.2.1 What is it?

Discrimination is treating or threatening to treat someone unfavourably because of a personal characteristic protected by the law, which include:

- (a) disability, disease or injury, including work-related injury;
- (b) parental status or status as a carer;
- (c) race, colour, descent, national origin, or ethnic background;
- (d) age, whether young or old;
- (e) sex;
- (f) 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;
- (g) religion;
- (h) pregnancy and breastfeeding;
- (i) sexual orientation, intersex status and gender identity;
- (j) marital status, whether married, divorced, unmarried or in a de facto relationship or same sex relationship;
- (k) political opinion;
- (l) social origin;
- (m) medical record;
- (n) spent conviction; and/or
- (o) 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 also 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. For example, not hiring married female employees due to potential pregnancy and/or caring responsibilities.

4.2.2 Types of discrimination

Discrimination can occur directly, when a person or group is treated less favourably in the same or similar circumstances, because they have one of the protected attributes listed in 4.2.1. For example:

- (a) expressing negative stereotypes about particular groups or using stereotypes as a basis for decisions about work e.g. 'Women with young children shouldn't work.' or 'Older workers can't learn new skills';
- (b) using selection processes based on irrelevant attributes such as age, race or impairment rather than on skills really needed for the job.

Discrimination can also occur indirectly, when an unreasonable rule or requirement imposed has or is likely to have the effect of disadvantaging a person or group of people who have one of the protected attributes listed in 4.2.1. For example:

- (a) implementing an irregular and inconsistent roster might be unfair to a person with responsibilities to care for children or an elderly parent;
- (b) only hiring people who have never had a back injury or a workers compensation claim might rule out an employee whose health has returned and can do the job well;
- (c) not considering the provision of some reasonable adjustments could disadvantage a person with an impairment who may be able to perform the essential parts of the job in a different way.

4.2.3 Exceptions to anti-discrimination laws

As a general principle, it is unlawful under anti-discrimination laws in Australia for an employer to discriminate against an employee on the ground of a protected attribute. However, there are a few limited exceptions to this. Some examples of these exceptions include (but are not limited to):

- (a) Synergy may terminate an employee's employment if the person is unable to perform the inherent requirements of a role as a result of a disability. This is only an exception if there are no reasonable adjustments that can be made which would allow the person to perform the inherent requirements of the role despite the disability; or
- (b) Synergy may implement specific diversity and inclusion strategies to address inequality experienced due to certain protected attributes.

4.2.4 Vilification

Vilification is a type of discrimination and is generally any public act that could incite or encourage hatred towards, serious contempt for or severe ridicule of, a person or group of people on the ground that they have certain of the attributes listed in 4.2.1.

Vilification is a criminal offence and such behaviour may be reported by Synergy to external authorities.

4.3 Sexual harassment

4.3.1 What is it?

Sexual harassment includes any unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature in circumstances which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

Just because someone does not object to inappropriate behaviour in the workplace at the time, does not mean that they are consenting to the behaviour. Sexual harassment can occur even where a person does not intend to offend, humiliate or intimidate.

Sexual harassment at work also occurs when it happens at work-related events, between people sharing the same workplace or between colleagues outside of work. All staff and volunteers have the same rights and responsibilities in relation to sexual harassment.

A single incident is enough to constitute sexual harassment – it does not have to be repeated.

Sexual harassment is unlawful and prohibited in Australia by both State and Commonwealth legislation, including the *Equal Opportunity Act 1984* (WA) and the *Sex Discrimination Act 1984* (Cth). Synergy may be held vicariously liable for sexual harassment by an employee or agent.

4.3.2 Examples of sexual harassment

Sexual harassment takes many forms. Examples of behaviour that may be considered sexual harassment include:

- (a) comments about a person's private life, gender identity, sexual orientation, sexual relationships, sexual practices or the way they look;
- (b) sexually suggestive behaviour, such as leering or staring;
- (c) brushing up against someone, touching, fondling or hugging;
- (d) sexually suggestive comments or jokes;
- (e) displaying offensive screen savers, photos, calendars, objects or other materials;
- (f) repeated, unwanted invitations to non-work social events and/or requests for dates/to go out;
- (g) requests or pressure for sex or sexual acts;
- (h) sexually explicit posts on social networking sites;
- (i) insults or taunts of a sexual nature;
- (j) intrusive questions or statements about a person's private life;
- (k) sending sexually explicit emails, messages, pictures and/or gifts;
- (l) inappropriate advances on social networking sites;
- (m) accessing sexually explicit internet sites; and

- (n) behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

4.4 Sex-based harassment

4.4.1 What is it?

Harassment on the ground of sex occurs where:

- (a) a person engages in unwelcome conduct of a demeaning nature by reason of the sex of a person or a characteristic that appertains generally to, or that is generally imputed to, persons of the sex of a person; and
- (b) the person does so in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

It is unlawful to harass a person on the ground of sex.

Conduct includes making a statement to a person, or in the presence of a person, whether the statement is made orally or in writing.

The circumstances to be taken into account in relation to whether conduct is harassment on the ground of sex include, but are not limited to, the following:

- (a) the sex, age, sexual orientation, gender identity, intersex status, marital or relationship status, religious belief, race, colour, or national or ethnic origin, of the person harassed;
- (b) the relationship between the person harassed and the person who engaged in the conduct;
- (c) any disability of the person harassed;
- (d) any power imbalance in the relationship between the person harassed and the person who engaged in the conduct;
- (e) the seriousness of the conduct; and
- (f) whether the conduct has been repeated.

4.4.2 Examples of sex-based harassment

Examples of harassment on the ground of sex may include, based on the circumstances:

- (a) asking intrusive personal questions based on a person's sex;
- (b) displaying images or materials that are sexist, misogynistic or misandrist;
- (c) making sexist, misogynistic or misandrist remarks about a specific person; and
- (d) requesting a person to engage in degrading conduct based on their sex.

4.5 Hostile workplace environments

4.5.1 What is it?

Sexual harassment can occur where a workplace environment is sexually charged or hostile, even if the specific conduct is not directed at a particular person. Synergy is committed to eliminating any workplace environment that is hostile on the ground of sex.

The primary difference between a hostile workplace environment and other forms of unlawful conduct, such as sexual harassment, is that the conduct is not directed towards a particular person, but results in a generally hostile environment.

It is unlawful for a person in a workplace to subject another person to a workplace environment that is hostile on the ground of sex. A hostile workplace environment exists where conduct occurs in the workplace and a reasonable person in the circumstances, would have anticipated the possibility that the conduct would result in the workplace environment being offensive, intimidating or humiliating to a person of a particular sex.

4.5.2 Examples of hostile workplace environments

Examples of conduct which may contribute to, or be indicative of, a hostile workplace environment include:

- (a) displaying obscene, pornographic or sexist materials in an environment where others work;
- (b) general sexual banter and/or innuendo;
- (c) offensive or threatening jokes (which do not necessarily need to be sexual in nature); and
- (d) carrying out petty acts, such as nuisance telephone calls.

4.6 Victimisation

Victimisation is subjecting or threatening to subject someone to a detriment (including bullying, harassing or punishing a person) because they have:

- (a) asserted their rights under equal opportunity and/or discrimination law;
- (b) made a complaint or grievance or intend to make a complaint or grievance;
- (c) given evidence about a complaint or grievance, including as a witness in the course of an investigation into a complaint or grievance;
- (d) assisted a person to raise an issue under this standard or another related standard, policy or procedure; and
- (e) refused to do something because it would be discrimination, sexual harassment or victimisation.

An initial complaint or grievance (for example in relation to bullying, discrimination or harassment) does not have to be upheld for a victimisation complaint to succeed.

Victimisation is unlawful and a serious breach of this standard.

5 WHAT TO DO IF YOU BELIEVE THIS STANDARD IS BEING BREACHED

Synergy has zero tolerance for any of the behaviours identified in this standard and takes a proactive and preventative approach to eliminating the behaviour – in all its forms.

If you are aware of anyone being subjected to this type of behaviour, or you are experiencing such behaviour, Synergy strongly encourages you to speak up. There are a number of ways that you can speak up depending upon what you feel comfortable with.

These options are contained within the Synergy Speaking up standard, including speaking to your P&C business partner, leader or management. Synergy also has a confidential whistleblower hotline (1300 30 45 50) you can use to report any behaviours in this standard. Even if you have not experienced this behaviour but are aware of it, you have a responsibility to speak up about it.

You are also able to report such behaviour to the relevant external authority such as the Fair Work Commission, Australian Human Rights Commission, Equal Opportunity Commission or WorkSafe Western Australia.

There will be no repercussions for those who report breaches of this standard in good faith. Repercussions against reporters are unlawful, as well as against Synergy's values and policies. The protections offered to people who speak up, including confidentiality protections, are outlined in the Synergy Speaking up standard.

Actions and consequences that are appropriate and proportionate will be promptly implemented, taking into account the behaviour in question, the impacts of the behaviour, the context, the risk to the physical and psychological safety of others and the wishes of any persons subjected to the bullying, discrimination, harassment, hostile workplace environments and/or victimisation.

6 EDUCATION, AWARENESS AND SUPPORT

Synergy is committed to preventing harassment in the workplace. This commitment is demonstrated through the implementation of preventive measures through psychosocial risk management, training, ongoing support and workplace monitoring, to eliminate any form of harassment in the workplace.

6.1 Training

It is mandatory for all employees, embedded contractors and project contractors to undertake Synergy training on the code of conduct and this standard within the first three months of commencement with Synergy and a refresher course on the code of conduct annually.

Other contractors (and their sub-contractors) are required to ensure their workforce are made aware of and regularly reminded of their obligations under this standard.

6.2 Support

If you believe you have been bullied, discriminated against, harassed victimised and/or subjected to a hostile workplace environment, or you have been a witness to such behaviour, and wish to seek counselling support Synergy encourages you:

- (a) to ring our employee assistance program provider (details can be found on Edison); and/or
- (b) contact our health and wellbeing team or your people and capability business partner for internal support.

Employee assistance counselling is confidential and nothing discussed with a counsellor will be communicated back to Synergy.

6.3 Monitoring

Grievances related to bullying, discrimination, sexual harassment, sex-based harassment, hostile workplace environments and victimisation will be monitored by the manager, people strategy & planning and where appropriate, remedial action will be taken.

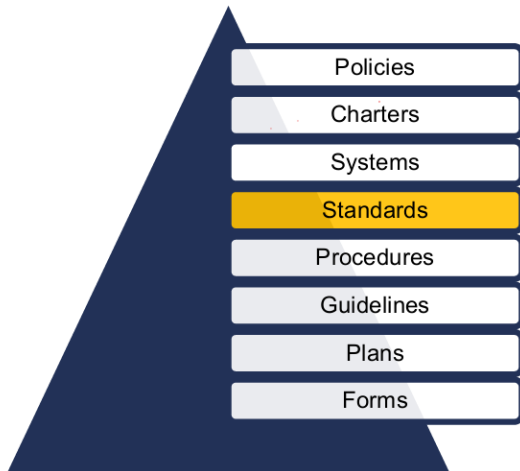
7 APPLICABLE LAWS

Bullying, discrimination, sexual harassment, sex-based harassment, hostile workplace environments and victimisation are all unlawful and prohibited in Australia by both State and Commonwealth legislation. The relevant legislation includes:

- (a) Age Discrimination Act 2004 (Cth);
- (b) Australian Human Rights Commission Act 1986 (Cth);
- (c) Disability Discrimination Act 1992 (Cth);
- (d) Equal Opportunity Act 1984 (WA);
- (e) Fair Work Act 2009 (Cth);
- (f) Racial Discrimination Act 1975 (Cth);
- (g) Sex Discrimination Act 1984 (Cth);
- (h) Work Health and Safety Act 2020 (WA), and
- (i) Workplace Gender Equality Act 2012 (Cth),

and associated Regulations, as amended from time to time.

8 DOCUMENT HIERARCHY AND QUESTIONS



The document hierarchy diagram (left) shows where in the document hierarchy this system sits and how it relates to all other documents in the hierarchy.

Any questions or feedback related to this document should be directed to the document owner in the first instance.

9 RELATED DOCUMENTS

You are encouraged to read this policy in conjunction with other relevant Synergy policies and standards, including the following:

Document title	Document number
Code of conduct	9090452
Speaking up standard	24209413
Inclusion & diversity policy	9090551
Investigations procedure	23817211
Managing performance and conduct procedure	9316234