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## Bullying and Harassment Policy

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### Introduction

Flashbay takes any form of intimidating behaviour very seriously, not merely because it may be unlawful, but because it can lead to under-performance at work, create a risk to the health and safety of that person or group of persons to whom the behaviour is directed or create a working environment which is not pleasant to work in.

Such behaviour may also have an adverse effect on the victims, resulting in people not contributing their best or not working well in teams when in fear of harassment, bullying or abuse.

Bullying or harassment will therefore not be tolerated under any circumstances by employees, visitors or customers. If bullying and harassment by an employee is proven, it will result in disciplinary action against the perpetrator, which may include dismissal.

### Scope

This policy applies to all employees of Flashbay Pty Ltd, casual workers, agency staff and contract workers. This policy does not form part of your contract of employment and it may be amended at any time. Any breach of this policy will be taken seriously and may result in disciplinary action.

### Understanding the terms

The Company employs the following definitions:

**Bullying** may be characterised as occurring when a person or group of persons repeatedly acts unreasonably towards another person or a group of workers, or is a one-off serious event and the behaviour creates a risk to the health and safety of that worker or group of workers.

Unreasonable behaviour includes victimising, humiliating, intimidating or threatening acts. Whether a behaviour is unreasonable, can depend on whether a reasonable person might see that behaviour as unreasonable in the circumstances.

What isn't bullying is when a manager makes decisions on poor performance, takes disciplinary action and directs or controls the way work is carried out. Reasonable management action carried out in a reasonable way is not bullying.

**Harassment**, in general terms, is unwanted conduct, which has the purpose or effect of violating the person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person in the workplace. It may be related to a personal characteristic such as age, gender, gender re-assignment, marital status, sexual orientation, race, colour, ethnic origin, disability, religion or belief, nationality or any other personal characteristic of the individual and may be a persistent or an isolated incident.

The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.

**Sexual harassment** is uninvited, unreciprocated or unwelcome behaviour of a sexual nature which is offensive to the person involved and causes that person to feel threatened, humiliated or embarrassed. Examples of sexual harassment are:

- requests for sexual favours, including implied or overt promises of preferential treatment or threats concerning present or future employment status
- offensive gestures or comments
- sexually-orientated jibes, innuendo or jokes
- unwanted physical contact
- the display of sexually offensive visual material such as calendars, photographs, books or videos

Sexual harassment may be experienced by men or women as a result of the conduct of men or women. It applies equally regardless of grade or level of job and may also occur when dealing with external clients and/or members of the public.

If serious enough, sexual harassment may result in a criminal conviction.

Racial harassment or vilification may result in racial and religious hatred which includes using threatening words or behaviour, displaying written material, playing a recording of visual images of sounds which are threatening if there is an intention to stir up religious hatred toward an individual or group of people.

Bullying and harassment are not necessarily "face-to-face". They may involve written communication, email, telephone, cyber bullying, texts or entries on external websites. It may involve an individual against individual or involve groups of people.

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Examples of behaviour which may be deemed as bullying or harassment are:

- physical contact which is unwanted
- physical or sexual assault
- unwelcome remarks about a person's age, dress, appearance, race or marital status
- jokes, offensive or inappropriate language or tone, gossip, slander, posters, graffiti, obscene gestures, flags, bunting and emblems
- isolation or non-cooperation and exclusion from social activities
- withholding information which is necessary to do a job
- mis-use of position power
- coercion for sexual favours
- pressure to participate in political/religious groups or behave unreasonably
- intrusion by pestering, spying and stalking
- persistent criticism
- personal attacks or insults

### **Responsibility and levels of authority**

As an employer, we will act to prevent harassment, to encourage incidents to be reported and to ensure that satisfactory solutions to problems are applied.

Our responsibility as an employer for our employees' well-being extends to any environment where work-related activities take place, including social gatherings organised by us, such as work parties or outings (when they are held at a time or place associated with the workplace).

If individuals harass their colleagues, they could render themselves personally liable and be required to pay compensation to the recipient in civil or criminal proceedings.

Individuals also have a responsibility and self-interest to behave in ways that support a hostile-free working environment for themselves and their colleagues. Employees should be prepared to take appropriate action if they observe or have evidence that someone else is being harassed.

All managers and group leaders have a responsibility to implement this policy and ensure it is understood for all employees for whom they have responsibility.

### **Raising a complaint**

The following process applies to anyone experiencing bullying or harassment, or anyone who is affected by the behaviour even though they are not the person the behaviour is directed towards.

It is helpful to make a note of the time, place and nature of any specific incidents and attempts to discuss them. This will provide useful information in following these procedures. The Company has a duty to investigate any complaint or suspected breach of this policy regardless of a request for confidentiality.

Complaints should preferably be dealt with internally and informally. This is better for all concerned as solutions can be reached speedily, with minimum risk to confidentiality.

The Company will make all reasonable efforts to maintain confidentiality but the duty to investigate and remedy harassment make absolute confidentiality impossible. Employees assisting in investigations are required to keep it confidential.

### **Informal procedure**

If possible, the employee experiencing harassment should state clearly to the person concerned that his or her behaviour is unacceptable and that it should cease. The individual may not realise their behaviour is unwanted or unacceptable and in such cases the misunderstanding can be resolved quickly. In some circumstances the employee might prefer to write a letter/email to the person concerned which should be dated and signed, and a copy kept as this may be needed as evidence should the harassment, victimisation or bullying continue or subsequently recur.

If the individual does not feel able to talk or write to the person concerned or if the harassment does not stop, they may wish to discuss the matter with a colleague, their Line Manager or a member of the Human Resources Department and ask them to approach the alleged harasser on their behalf.

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Should there be more serious harassment, or due to individual preference, or where an informal approach has failed, formal procedures and actions should be taken. In these cases, employees are referred to our Grievance procedure for further advice. For further information please refer to the detailed Grievance Procedure.

### **Applying the Grievance Policy**

At any time, whether or not informal steps have been taken, an employee who feels that he or she or others have been harassed in a way that breaches this policy can raise the matter with their Line Manager or a member of the HR department, either verbally or in writing, who will deal with it accordingly. Thereafter, the matter will be dealt with as follows:

The Human Resources department will conduct the whole process in conjunction with the appropriate Manager. An investigation will be conducted into the case as soon as possible to establish whether there is a need to take disciplinary action. The Human Resources Representative will inform the person against whom the complaint is made of the nature of the complaint and that the matter is being investigated formally.

If the manager is the accused perpetrator, another manager or external party may become involved in the process.

If it is felt that an employee's behaviour may be in breach of the policy, the Company will consider suspending or temporarily re-deploying them.

Once the investigation has concluded, both parties will be informed of the decision as soon as possible. If the case is not judged serious enough to initiate disciplinary action, the Manager will determine appropriate methods of resolving the issue following discussion with both parties. Where appropriate, the Manager may invoke the disciplinary procedure and may advise the complainant of any action taken if appropriate. For further information please refer to the Disciplinary Policy and Procedure.

### **After an investigation**

After the investigation it is important for the Line Manager or Senior Manager to monitor the situation and check that harassment has stopped and there has been no victimisation or retaliation as a result of a complaint being raised.

Similarly, it is important for the individual to inform their Line Manager or a member of the HR department if the harassment continues or they receive some other form of unacceptable behaviour from the perpetrator as a result of a complaint being raised.

If the employee is not satisfied with the outcome or decision, external support may be sought via Fair Work Australia, Work Cover, the Anti-Discrimination authority or a legal representative.

It is illegal to discriminate against or vilify anyone who has raised a complaint and the Company will not tolerate unfair treatment of that person.

Complaints that are found to be malicious or untrue will also be dealt with by disciplinary measures.

### **Monitoring this policy**

It is important to note that the Company may vary or amend this policy from time to time particularly to take account of changes in the law, best practice or business requirements. This document shall be revised by the appropriate person, the HR Manager or nominated deputy. You will be notified of any changes.