

Bullying, Harassment & Discrimination Policy

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Purpose

Inappropriate or unreasonable workplace behaviour is the overarching term for different types of behaviour at work that can create a risk to the health and safety of workers. These behaviours include bullying and harassment, as well as violence and aggression. Discrimination, misconduct, and conflict can also affect worker health and need to be addressed appropriately. Brownes Dairy is committed to providing a harmonious work environment that is free from discrimination, harassment, and workplace bullying. Furthermore, Brownes Dairy seeks to embrace diversity and foster a culture based on mutual respect and trust.

Scope

This policy applies to all workers. For the purposes of this policy a worker is defined as a person who conducts work in any capacity for Brownes Dairy, including employees, contractors, apprentices or trainees and volunteers.

Legislative Framework

The Work Health and Safety Act 2020 (WHS Act) provides for the promotion, coordination, administration and enforcement of work health and safety in Western Australia. It applies to all workplaces. With the objective of preventing work-related injuries and diseases, the WHS Act places certain duties on Persons Conducting a Business or Undertaking (PCBU), workers and contractors. These broad duties are supported by further legislation, commonly referred to as regulations, together with non-statutory codes of practice and guides.

Responsibilities

Everyone in the workplace has a duty to manage hazards and risks in relation to inappropriate or unreasonable workplace behaviour.

A PCBU has the primary duty of care under the WHS Act to ensure, so far as is reasonably practicable, that workers and other persons are not exposed to health and safety risks arising from work carried out as part of the business or undertaking. This duty includes, so far as is reasonably practicable:

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

Officers, such as Company Directors, must exercise due diligence to ensure the business or undertaking complies with the WHS legislation. This includes taking reasonable steps to ensure the business or undertaking has and uses appropriate resources and processes to eliminate or minimise risks associated with workplace bullying.

All workers and visitors to any Brownes Dairy site have a responsibility to:

- Take reasonable care for their own health and safety while at work;

- Take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons;
- Comply, so far as the worker is reasonably able, with any reasonable instruction given by the PCBU; and
- Cooperate with any reasonable policies and procedures of the PCBU, including this code of practice.

Relevant Legislation & Codes

The following legislation, regulations, together with the non-statutory codes of practice and guides, form the basis of this policy and should be used or referred to as required:

- Work Health and Safety Act 2020;
- Code of Business Conduct – The Way We Work;
- Sex Discrimination Act 1984 (Commonwealth);
- Sexual and Gender-based Harassment Code of Practice 2023;
- Equal Opportunity Act 1984 Fair Work Act 2009 (Commonwealth);
- Racial Discrimination Act 1975 (Commonwealth);
- Disability Discrimination Act 1992 (Commonwealth);
- Privacy Act 1988 (Commonwealth);
- Australian Human Rights Commission Act 1986 (Commonwealth);
- Criminal Code Act Compilation Act 1913;
- Public Interest Disclosure Act 2003;
- Public Sector Management Act 1994; and
- Workers' Compensation and Injury Management Act 1981.

Workplace Bullying

Workplace bullying is 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 involve 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. Examples of behaviour, whether intentional or unintentional, that may be workplace bullying if they are repeated, unreasonable and create a risk to health and safety include:

- Abusive, insulting, or offensive language or comments;
- Aggressive, intimidating conduct, belittling, or humiliating comments;
- Victimisation;
- Practical jokes or initiation;
- Unjustified criticism or complaints;
- Deliberately excluding someone from work-related activities;
- Withholding information that is vital for effective work performance;
- Setting unreasonable timelines or constantly changing deadlines;
- Setting tasks that are unreasonably below or beyond a person's skill level;
- Denying access to information, supervision, consultation, or resources to the detriment of the worker;
- Spreading misinformation or malicious rumours; and/or
- Changing work arrangements such as rosters and leave to deliberately inconvenience a particular worker or workers.

A single incident of unreasonable behaviour is not workplace bullying. However, it may constitute serious misconduct and be dealt with in accordance with the Brownes Dairy Disciplinary Policy and Procedure. If the behaviour involves violence, for example physical assault or the threat of physical assault, it should be reported to the police.

Sexual & Racial Harassment

Sexual, racial, or other harassment based on an unlawful ground prescribed by the Equal Opportunity Act 1984 (WA), or relevant federal discrimination law is inappropriate and unreasonable behaviour for the purpose of this policy. Harassment can involve physical, verbal, and visual conduct, which can be written or drawn, in the form of posters, email or SMS messages, including:

- Material that is displayed in the workplace, for example, on a noticeboard;

- Material put on a computer, sent by email, SMS, or put on a website blog or on social networking;
- Verbal abuse, derogatory comments, or intrusive personal questions;
- Offensive jokes or comments;
- Offensive gestures; or
- Initiation ceremonies that involve unwelcome and unsafe behaviour.

Harassment can be a one-off incident or repeated and continuous occurrences. Harassment may be perpetrated by a person in a position of power over another; for example, by a supervisor at work; or it may occur where there is no power relationship, for example among work colleagues. Anyone can be harassed, including any gender, and people of any age or background. Harassment can create a hostile work environment that may impact upon others in the workplace and can become a hazard under the WHS Act when it has the potential to create a risk to health and safety.

Racial Harassment

Racial harassment is unlawful under the Equal Opportunity Act 1984. Race includes colour, descent, ethnic or national origin, or nationality and may comprise two or more distinct races. Racial harassment may take many forms including threats, abuse, insults, and taunts based on a person's race or a characteristic belonging to, or generally believed to belong to, a particular race. In employment, it is unlawful to racially harass an employee, a co-worker or even a potential employee or a potential employer, or contract worker.

Sexual and gender-based harassment

Sexual harassment is defined in the Sex Discrimination Act 1984, as an unwelcome sexual advances, or an unwelcome request for sexual favours, or other unwelcome conduct of a sexual nature, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would be offended, humiliated, or intimidated. These include:

- Suggestive comments or jokes, insults or taunts based on a person's gender or sexual orientation;
- Repeated or inappropriate advances in person and/or online;
- Sending unwelcome pictures, content, and messages of a sexual nature;
- Unwelcome physical contact, including unwanted touching, hugging, cornering, and kissing; or
- Actual or attempted rape or sexual assault.

Sex- or gender-based harassment is any unwelcome conduct of an offensive or demeaning nature by reason of the person's gender, sex, or sexuality, in circumstances in which a reasonable person would have anticipated the possibility that the person harassed would be offended, humiliated, or intimidated.

Sexual harassment can occur at work including any of the following:

- At a worker's usual workplace;
- Working remotely, at their home or a client's home;
- When engaging in work related activities such as conferences, training, work trips, work related events or social activities like a work Christmas Party;
- By phone, email or online; and
- At a worker's provided accommodation.

Respect at work - positive duty

The Respect at Work legislative amendments commenced in 2023. The new laws created a positive duty in the *Sex Discrimination Act* (Cth) to prevent sexual harassment and other unlawful conduct.

The Sexual Harassment Code of Practice identifies that the Respect at Work requirements operate concurrently with the WHS duties. PCBU's are required to take reasonable and proportionate measures to eliminate, as far as possible, discriminatory conduct that is unlawful, including:

- Sex discrimination in a workplace context;
- Sexual harassment in connection with work;
- Subjecting a person to a hostile work environment on the grounds of sex; and
- Certain acts of victimisation.

Every PCBU must now take steps to conduct a risk assessment to consider the culture of the workplace and implement reasonably practicable measures to manage the risk of sexual and gender-based harassment to workers and others health and safety, arising from the conduct of its business. While both men and women experience sexual harassment, women are significantly more likely to

experience it than men and are more likely to suffer negative impacts on their physical and psychological health and safety at work. Acts such as indecent exposure, physical and sexual assault, stalking and obscene or threatening communications (e.g., phone calls, letters, emails, text messages and posts on social media and electronic platforms) may be offences under criminal law and should be referred to police as well as managed under Company policies. Contact with the police should be done with consent of the individual affected, however, there may be circumstances, for example, if the person is in imminent danger or incapacitated, where it would be appropriate to call the police without consent.

Discrimination

The Equal Opportunity Act 1984 makes it unlawful to discriminate against or treat a person less favourably on the grounds of sex, race, marital status, pregnancy, religious or political beliefs, age, physical impairment, intellectual impairment, sexual orientation, and family responsibilities. Discrimination may occur when a person, or a group of people, are treated less favourably than another person or group because of a prohibited ground under the Equal Opportunity Act 1984 or any other anti-discrimination law in force in the place where the action occurs. Discrimination can be unlawful if it is based on a person's age, disability, race (including colour, national or ethnic origin or immigrant status), sex, pregnancy, marital or relationship status, political conviction, religious conviction, family responsibilities or breastfeeding, sexual orientation, gender identity or intersex status, and spent conviction. It does not matter if the behaviour is intentional or unintentional. It is unlawful to discriminate against someone (i.e., treat less favourably) due to a protected attribute or ground covered under current equal opportunity employment laws. This is known as direct discrimination. It is also discrimination when an unreasonable rule or policy applies to everyone but has the effect of disadvantaging some people because of a shared personal characteristic. This is known as indirect discrimination or systemic discrimination.

Violence and Aggression

Work-related violence and aggression cover a broad range of actions and behaviours that create a risk to health and safety of workers in circumstances related to their work. These are actions or behaviours that may physically or psychologically harm another person. Examples include:

- Abusive behaviour, including insults and name-calling, and intimidating behaviour that creates a fear of violence, such as stalking or threatening to cause physical harm; or
- Any form of assault, such as biting, spitting, scratching, hitting, kicking, punching, pushing, shoving, tripping, grabbing, or throwing objects.

Violence and aggression can harm both the person it is directed at and anyone witnessing it. Psychological harm can arise from repeated exposure to violence and aggression. Violence and aggression can be:

- Physical, psychological, verbal or written;
- One off or repeated incidents;
- Minor behaviours through to more serious acts, including criminal offences, which require the intervention of public authorities; or
- In person or can include threats by correspondence, electronic means or by social media.

Physical assault or the threat of physical harm of any form is a criminal act. If a suspected criminal act has been committed, the appropriate response is to contact management, who in turn will contact the police. Contact with the police should be done in consultation with the individual affected, wherever possible. This is to ensure they maintain control over their circumstances and are not unintentionally put at further risk which can occur with some forms of violence and aggression, such as family and domestic violence. For clarity, if the person is in imminent danger, it would be appropriate to call the police without consultation.

Workplace Conflict

Workplace conflict usually involves two or more people who are in conflict over a work-related matter(s) and are unable to resolve those differences. Conflict is a natural part of any workplace. However, it may pose a risk to health and safety if it is prolonged, unresolved or escalates and the behaviours become inappropriate or unreasonable. Work related conflict generally occurs because of:

- Task conflict – where people have differences of opinion or disagreement about resource allocation, ideas, decisions, or actions relating directly to the job.
- Relationship conflict – where people have differences of opinion which impacts on their ability to work together.

Where cases of prolonged or unresolved conflict arise, efforts should be made to determine the severity of the conflict and establish an appropriate mechanism to respond to it. This may include either informal or formal resolution processes, or by the PCBU making a decision in relation to the matter which is the subject of the dispute. If the PCBU has taken all reasonable measures, but the conflict is unresolvable, it is taken to have been resolved.

Risk Management

It is a requirement under the WHS legislation to use a risk management approach based on the hierarchy of control to manage hazards and risks to worker safety and health, including psychological health and safety. Aside from meeting their legislative obligations, adopting a risk management approach helps PCBUs to:

- Prevent and reduce the likelihood of inappropriate or unreasonable behaviour occurring;
- Prevent and reduce the likelihood of harm from exposure to inappropriate or unreasonable behaviour;
- Respond appropriately when inappropriate or unreasonable behaviour occurs.

A risk management approach adopts a way of moving away from dealing with specific allegations of inappropriate or unreasonable workplace behaviour into identifying and addressing causal factors and systemic issues that may exist in the work environment before they occur.

Prevention Strategies

Leadership – Leaders have a vital role to play when it comes to managing safety. When workers know their managers place high importance on working safely, they are more likely to be motivated to follow safety procedures and raise safety issues. Demonstrated senior management commitment in identifying, preventing, and responding to inappropriate or unreasonable behaviour is one of the key factors for preventing inappropriate or unreasonable behaviour and managing psychosocial risks. Managers can demonstrate commitment in various ways including by:

- Modelling respectful behaviours at all times;
- Developing and implementing a policy which clearly identifies the expected behaviours and consequences of not complying;
- Dealing with inappropriate or unreasonable behaviour as soon as they become aware of it;
- Ensuring that reports are taken seriously and properly investigated; and
- Consulting with workers.

Training - Training for workers should include information on:

- The standards of behaviour expected in the workplace including the use of social media if relevant; and
- How inappropriate and unreasonable behaviour should be reported and how such reports are managed.

Training for managers and supervisors should develop skills to be able to identify psychosocial hazards and put the right control measures in place. They should be trained in how to prevent and respond to inappropriate and unreasonable behaviour, and in skills that will help develop productive and respectful workplace relationships.

Complaint Resolution Procedure

If a worker considers they are being subjected to inappropriate or unreasonable workplace behaviour, or witnesses another worker being subjected to inappropriate or unreasonable behaviour, they will be more likely to report it if they know there is a reporting process in place and that the report will be addressed in a timely manner. Reports should be raised within the workplace and reasonable attempts should be made to resolve the matter internally before referring the matter to external agencies such as WorkSafe WA or the Fair Work Commission.

Step 1 - Informal Resolution - If the employee feels comfortable in doing so, they may wish to raise the issue with the person(s) concerned and request that he or she stop engaging in inappropriate or

offensive behaviour. If such an agreement cannot be reached, the parties are encouraged to seek advice and assistance from their respective line managers. Informal Resolution is appropriate where:

- The complaint is of a less serious nature;
- The parties are likely to have ongoing contact with one another and the employee raising the complaint wishes to pursue an informal resolution so that the working relationship can be sustained; and
- The employee raising the complaint is comfortable to explain to the person(s) involved why their action or behaviour is inappropriate or offensive, giving them an opportunity to understand the consequences of, and modify their behaviour.

If the employee does not feel comfortable approaching the person directly, or they approach the person and the behaviour continues, they should seek the advice of their line manager.

Step 2 – Formal Resolution - Employees who are unable to resolve their complaint under Step 1 may choose to request that their complaint is dealt with in a more formal manner or alternatively employees may choose to raise a formal complaint in the first instance. The employee will put their complaint in writing to their line manager. When a complaint has been formally lodged, a nominated People & Culture representative will conduct an objective, confidential and thorough investigation. The purpose of an investigation is to establish, on the balance of probabilities, what has occurred based on the evidence gathered. The investigation will involve:

- Clarifying details of the complaint and ensuring that all necessary information is obtained;
- Identifying the outcomes, the employee is seeking;
- Informing the person to whom the complaint is made about and offering them the opportunity to respond to the allegations; and
- Determining whether the claim is substantiated based on the information gathered.

Possible Outcomes - Following the investigation process, Brownes Dairy will consider the circumstances and nature of the complaint to determine an appropriate responsive action. Appropriate action taken may include:

- Directing the person to cease the behaviour and gaining a commitment that the behaviour will not be repeated and monitoring this over time;
- Providing information to workers to raise the awareness of inappropriate behaviours and standards of behaviour expected;
- Providing training or coaching e.g., leadership, communication and interpersonal skills and conflict management;
- Providing counselling support;
- Reviewing the workplace policy and prevention measures • addressing organisational issues that may have contributed to the behaviour occurring • requesting an apology;
- Providing a verbal or written warning or transferring a worker or workers to another work area; or
- Demotion, dismissal, or other actions subject to the Discipline Policy and Procedure.

The outcome of the investigation should be communicated both verbally and in writing to the parties involved no later than 15 working days after the complaint was received. Should the investigating officer be unable to make or effect their decision within the above timeframe due to the unavailability or lack of cooperation of any of the parties, they may decide to postpone, abandon, or proceed with the process as deemed appropriate given the circumstances. The parties will be informed of such decisions when they are made.

Related Documents

Policy Code of Business Conduct – The Way We Work
Discipline Policy
Discipline Procedure