



**uniting
church**
in Australia,
Synod of NSW & ACT

Bullying Harassment and Discrimination Policy

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A word from Rev. Jane Fry

I am passionate about the work we do to support our communities and to right social wrongs. I'm equally passionate about supporting our employees, volunteers and independent contractors in the workplace.

Everyone has the right to come to work every day and enjoy an environment free from harassment (sexual or otherwise), bullying, discrimination, vilification or victimisation. Not only are these behaviours contrary to our mission, vision and values, they are destructive and damaging and won't be tolerated.

In the words of David Morrison, 2016 Australian of the Year, 'the standard you walk past is the standard you accept'. We all deserve the best standard and I won't accept anything else.

We are guided by:

- compassion
- respect
- collaboration
- integrity

If you see something, hear something or experience something that just isn't right, please speak out. Respect for others is not a choice, it's a requirement and it's only through our combined efforts that we can succeed and grow together.

Once you've read the policy, if you have any questions, please speak to your supervisor or manager or to a member of our People and Culture Team.



Rev Jane Fry

1. Overview

The Synod Office, Uniting Financial Services and the churches and congregations within the ambit of the Synod of NSW and the ACT (**'Synod'**) are committed to providing a safe, healthy and inclusive environment for all its employees (permanent, fixed-term and casual), volunteers, independent contractors, and temporary agency staff (together, referred to in this policy as **'Individuals'**). This means a workplace where people can thrive and which is free from bullying, harassment, sexual harassment, discrimination, vilification and victimisation (collectively referred to in this policy as **'inappropriate behaviour'**).

The Synod expects Individuals to behave in a courteous and respectful manner at all times and has zero tolerance for any form of inappropriate behaviour within the workplace. We encourage individuals to speak out if they see, hear or experience anything inappropriate or untoward. More information about how to do that can be found in this policy.

2. Purpose of Policy

This policy:

- ▶ Supports our values and our principles of inclusion, diversity and equality;
- ▶ Supplements other policies relating to behavioural standards at work, including but not limited to, the Code of Conduct, Health and Safety policies and policies governing social media and the appropriate use of technology;
- ▶ Defines the principles under which the Synod will prevent or manage inappropriate behaviour in the workplace;
- ▶ Encourages the prompt management or reporting of inappropriate behaviour;
- ▶ Provides an effective procedure for dealing with, and responding to, reports impartially, promptly and fairly; and
- ▶ Provides information and guidance on the behaviours that could constitute inappropriate behaviour.

3. Applicability (scope)

3.1 People

This policy applies to all employees (including permanent, fixed-term and casual employees), volunteers, and independent contractors (**'Individuals'**) who are performing work for or providing services to the Synod.

3.2 Workplace

This policy extends to all places where work, or work-related activity, is carried out whether within or outside of working hours. This includes:

- ▶ at an Individual's usual workplace;
- ▶ where an Individual is working remotely or at an alternative location, including when the Individual is working from home or is attending church or a community member's premises in the course of work; and
- ▶ where an Individual is representing the Synod or engaging in work-related activity such as community consultation, conferences, training, business trips, social events whether or not on Synod owned or run premises.

The policy also extends to all written and verbal communication, both inside and outside the workplace, including, but not limited to, letters, reports, email, instant messaging, text messages and social media platforms such as LinkedIn, Facebook, Twitter and other forms of social media where content can be shared and/or comments made. Please see the Synod's Social Media policy for further information in relation to social media use.

4. Definitions

Complainant means a person who raises a concern or makes a complaint (formal or informal) under this policy. A Complainant may have had either direct or indirect (e.g. overhearing a lewd conversation or joke) exposure to the inappropriate behaviour.

Contact person means a person authorised to hear and act upon a complaint or concern raised under this policy. Contact persons are Supervisors, Managers, Directors, Executives and the People and Culture team.

Inappropriate Behaviours are behaviours which could constitute bullying, harassment, sexual harassment, discrimination, vilifications or victimisation. Examples of inappropriate behaviours can be found in Section 5 and Appendix A of this policy.

Protected attributes means certain protected characteristics, e.g. a person's:

- ▶ race, including colour, national or ethnic origin or immigrant status;
- ▶ sex, pregnancy, breastfeeding, marital status and family or carer's responsibilities'
- ▶ age, religion, political opinion;
- ▶ physical or mental disability; and/or
- ▶ sexual orientation, gender identity and intersex status.

Respondent means the person who is the subject of a complaint.

Witness means a person who is asked to provide information about what they've seen, heard, or read.

5. What are Inappropriate Behaviours?

Inappropriate behaviours can fall into a number of categories such as bullying, discrimination, harassment, sexual harassment, vilification and victimisation.

Many inappropriate behaviours may affect not just those directly exposed to it, but those who witnesses it (such as overhearing a conversation, lewd jokes or seeing sexually explicit material). Some inappropriate behaviours may also constitute a criminal offence.

We understand that, when reviewing the definitions and examples within this policy, it may be difficult to determine the category into which the inappropriate behaviour falls. It's not necessary to do so. The important thing is that all of the behaviours described are inappropriate and if an Individual experiences, sees or hears something, we need to stop it.

More information about how to address inappropriate behaviour can be found in this policy under Section 7.

5.1 Discrimination

Discrimination occurs when an individual, or a group of individuals, is treated less favourably (including harassing or bullying them) than another individual or group of individuals because of their background or personal attributes.

Discrimination can be direct or indirect.

- ▶ **Direct discrimination** occurs when a person is treated unfairly or is disadvantaged because they have one or more specific attributes.
- ▶ **Indirect discrimination** can occur when a requirement or condition has the practical (yet unintended) effect of disadvantaging an individual or group of individuals because they have one or more specific attributes.

What discrimination is not:

There is a difference between making discerning decisions and discriminating against a person. For example, a requirement that job candidates have a driver's licence requires that candidates are over the age of 18. If the need for a driver's licence is an inherent requirement of the role, then no discrimination has occurred.

Examples of discrimination can be found in Appendix A to this policy.

5.2 Bullying

Bullying is repeated and unreasonable behaviour directed towards an individual or group of individuals that creates a risk to health and safety. Bullying behaviour can range from obvious verbal or physical assault to subtle psychological abuse.

- ▶ **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.

While a single incident of unreasonable behaviour may not constitute bullying, it could fall within another category of inappropriate behaviour such as discrimination, harassment or sexual harassment.

Regardless of how the behaviour is classified, the Synod takes the view that no form of unreasonable behaviour is ok and it needs to be stopped - whether repeated or not.

Examples of bullying behaviour can be found in Appendix A of this policy.

What is not bullying?

Not all behaviour that makes a person feel upset or undervalued is workplace bullying. For example:

- ▶ Differences of opinion and disagreements are generally not workplace bullying. Conflict is not always negative and it's not always a risk to health and safety. Disagreement can generate debate, leading to new ideas and innovative solutions. It's important however that any disagreements remain task-focussed and are expressed in a polite and respectful manner, adopting the approach of listening to understand (versus speaking to be heard). However, there are circumstances where, if unmanaged, conflict can escalate to the point where it becomes workplace bullying.
- ▶ Reasonable management action taken in a reasonable way is not workplace bullying. Managers are responsible for monitoring the quality and timeliness of work and for providing individuals with feedback. Sometimes feedback, particularly corrective feedback, can be difficult to hear, however it can be an important part of an individual's growth and development and is therefore a manager's responsibility to provide it.

5.3 Harassment

Harassment does not need to be sexually motivated to constitute harassment. Harassment is unwelcome behaviour or conduct by a person (which may be verbal or physical) that intimidates, offends, belittles, threatens or humiliates another person. This includes harassing someone on the basis of them (or an association of theirs) having a protected attribute (see under Discrimination for more information).

Examples of harassing behaviours can be found in Appendix A of this policy.

5.4 Sexual Harassment

Sexual harassment is any unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature, in circumstances where a reasonable person would anticipate that the person harassed might be offended, humiliated or intimidated.

Sexual harassment can take many different forms. It can be direct or indirect, physical or verbal, repeated or one-off and is not specific to a particular gender.

Examples of sexual harassment can be found in Appendix A of this policy.

What is not sexual harassment?

Sexual harassment does not include interaction, flirtation or friendship which is mutual or consensual.

5.5 Vilification

Vilification is a public (not private) act that could incite hatred, serious contempt or ridicule towards a group of people who have a particular characteristic. It is against the law to vilify people on the basis of, but not limited to, race, colour, nationality, gender identity, homosexuality, intersex, transgender status, HIV/AIDS status, religious conviction or disability.

Vilification could include, but not be limited to:

- ▶ communications that can be seen or heard by the public (this includes print, radio, video or online);
- ▶ signs, flags or clothing with inappropriate logos or messages that could be seen by the public;
- ▶ distributing and sharing information to the public; and
- ▶ posts on social media that can be viewed by members of the public.

5.6 Victimisation

Victimisation means subjecting or threatening to subject an individual to some form of detriment because they have:

- ▶ lodged or are proposing to lodge a complaint of inappropriate behaviour;
- ▶ provided information or documents in support of an investigation;
- ▶ acted as a witness during an investigation;
- ▶ attended a conciliation conference;
- ▶ reasonably asserted their rights or supported someone else's rights under Federal anti-discrimination laws; and/or

- ▶ made an allegation that a person has acted unlawfully under anti-discrimination laws.

5.7 Intention is Irrelevant

Inappropriate behaviours are not always intentional and we're not always perfect. In matters of discrimination, harassment (sexual or otherwise) or bullying, **intention is irrelevant**. Apologies on the other hand remain very relevant.

- ▶ If you think your behaviour or something you said might have hurt or offended someone, assume that it did, apologise and undertake not to do it or say it again.
- ▶ If you're unsure whether your behaviour or something you want to say could offend, assume it will and **refrain, re-think and re-start**.

6. Responsibilities

6.1 General Secretary, Senior Executives and Directors

- ▶ The General Secretary is accountable for ensuring the implementation of this policy across the Synod. The General Secretary has a legal and moral responsibility to prevent inappropriate behaviour in the workplace, and to ensure that any concerns or complaints are responded to promptly, appropriately and sensitively.
- ▶ The Senior Executives and Directors are responsible for the implementation and communication of this policy within their divisions and functional areas and for role-modelling behaviours associated with our values.

6.2 Policy Owner and Sponsor

- ▶ The Director, People and Culture is the owner of this policy and is accountable for implementing and overseeing this Policy and for taking steps to ensure Individuals are informed about their rights and obligations under this policy.

6.3 People Leaders

- ▶ People Leaders are responsible for:
 - ▶ Monitoring the work environment to ensure behaviour within their teams accords with the Synod's values and this policy;
 - ▶ Promoting and modelling appropriate behaviour;
 - ▶ Acting on information and/or complaints promptly to provide support and take any necessary action including the referral of matters to the Director, People and Culture as appropriate; and
 - ▶ Maintaining confidentiality of all complaints/issues raised except insofar as is necessary to enable the People Leader to address the concern.

6.4 Individuals

- ▶ Individuals are responsible for:
 - ▶ Complying with the standards of behaviour outlined in this policy and as set out in our Values;
 - ▶ Treating each other with respect, courtesy and dignity at all times;

- ▶ Listening to and responding appropriately to the views and concerns of others;
- ▶ Promptly addressing or reporting any inappropriate behaviour they experience, see or hear. (This will depend on the nature of the incident(s) and the Individual's level of comfort in addressing it directly.);
- ▶ If confided in by another, offering support and encouraging them to seek help or speak out;
- ▶ Except for seeking help or reporting a concern, maintaining confidentiality in relation to any matter under this policy;
- ▶ Knowing when and how to check their own behaviour and to apologise if they might have overstepped the mark;
- ▶ Being open to an apology if one is received; and
- ▶ Quelling any gossip.

7. Managing Inappropriate Behaviour

This section is intended to provide Individuals with some high-level guidance in the event they have a concern about inappropriate behaviour.

If an Individual is experiencing or witnessing inappropriate behaviour, the Synod encourages them to raise the matter promptly so that it can be stopped as soon as possible. There are different options available and these are set out below.

The important thing is not to stand by and let the behaviour continue.

What can an individual do?

1. Ask for the behaviour to stop

Politely tell the person that their behaviour is unwelcome and ask them to stop. Sometimes people don't realise their effect and letting them know might be all it takes to have them stop.

2. Raise a concern or make a complaint

In the event an Individual doesn't feel comfortable approaching the person directly, or the behaviour continues, we encourage the Individual to speak to their manager or a Contact person to discuss the available options and to support the Individual in taking the next step. When speaking with a Contact person, the Individual has the option of having a support person with them who can help you clarify options.

3. Take Action

Once a concern or complaint is raised, it's important that action is taken. This could include supporting the Individual to speak with the person or it may include the making of an informal or formal complaint.

Exploring a Complaint

Not all reports will result in investigation and alternative forms of resolution will be considered as appropriate and at the discretion of the Synod.

Where an investigation is warranted, it will be conducted confidentially, impartially and as

expediently as possible having regard to due and fair process for all involved. The investigation may be conducted by the People and Culture team or by an independent third party.

The investigation process itself can vary depending on the nature and seriousness of the complaint. However, the Synod is guided by the following principles:

- ▶ In any investigation, the Complainant and the Respondent will have the opportunity to state their case and provide relevant information including the names of any witnesses.
- ▶ Complainants, Respondents and Witnesses will be required to observe confidentiality standards.
- ▶ Complainants and Respondents will be afforded the opportunity to have a support person present at meetings and will also continue to have access to our EAP.

There will be no victimisation of any Complainant, Respondent or Witness. However, complaints made maliciously or in bad faith may result in disciplinary action.

For Supervisors or Managers, if an Individual raises a concern under this policy and seeks advice:

- ▶ be aware that the Individual may be feeling a range of emotions such as anger, distress, vulnerability, frustration, or powerlessness;
- ▶ listen carefully, be sensitive, non-judgmental and avoid reaching conclusions;
- ▶ take notes including date, time, place, and basic elements of the issues etc. (sending an email to yourself is a good method, provided that no one else has access to your emails)
- ▶ reassure the Individual that if they choose to lodge a report, the matter will be dealt with promptly, thoroughly, objectively, and with respect to the privacy of those concerned;
- ▶ remind the Individual that they can get support from the EAP; and
- ▶ keep a confidential record of the discussion, with password protection applied.

Where further information or guidance is needed, Supervisors and Managers are asked to contact the People & Culture team.

8. Potential Outcomes of Making a Complaint

If a report is substantiated, actions taken will differ depending on the nature, seriousness and circumstance of the complaint (including, but not limited to whether it is a repeat offence). This includes instituting disciplinary proceedings against the Respondent, up to and including termination of employment either with or without notice*. Non-disciplinary measures may also be considered. Further information about potential disciplinary and non-disciplinary actions can be found in our Managing Performance and Misconduct Policy.

If a report is not substantiated, assistance will still be provided to resolve outstanding issues.

Vexatious claims

A vexatious, or false complaint, is also a form of inappropriate behaviour as it has the power to hurt and disrupt another's life and pose a risk to their health and safety. As a result, any individual who is found to have made a vexatious claim, will be subject to disciplinary action up to and including termination of employment.

9. Confidentiality

All Individuals have a right to due and fair process and confidentiality, from all parties, is a critical aspect to this. Misinformation and unsubstantiated claims may damage to the reputations of the parties involved and could jeopardise the investigation and resolution process.

No Complaint, Respondent or Witness should discuss the matter with anyone other than with their advisors or with the appropriate Synod Individual or authorized party (e.g. EAP Service 'Benestar' on 1300 360 364, Speak Out on 1800 951 145, third party investigators, etc).

Engaging in gossip or innuendo may constitute harassment, bullying or victimization and may have employment and legal ramifications.

10. Monitoring Progress – Reporting to the Board

To ensure the Synod continues to meet its obligations and commitment to Individuals, and to help identify any further preventative or proactive steps that the Synod can take, The Director of People and Culture will periodically report to the Board as to any matters raised under this policy.

11. Supporting Legislation

This policy is supplementary to the Code of Conduct and forms part of a suite of policies which set out required standards of behaviour including, but not limited to, Managing Performance and Misconduct.

This policy is also supported by the following legislation:

- *Work Health & Safety Act 2011 (Cth)*
- *Sex Discrimination Act 1984 (Cth)*
- *Racial Discrimination Act 1975 (Cth)*
- *Disability Discrimination Act 1992 (Cth)*
- *Age Discrimination Act 2004 (Cth)*
- *Anti-Discrimination Act 1977 (NSW)*
- *Australian Human Rights Commission Act 1986 (Cth);*
- *Federal, NSW and ACT Work Health and Safety laws*
- *Fair Work Act (Cth) 2009*

12. Further Information or Questions about this Policy

If an Individual requires any further information or has questions about this policy, we encourage them to contact their Manager or Director, the Director, People and Culture or a People and Culture business partner.

Employees are also reminded that the Synod's EAP remains available and we encourage anyone who feels psychologically impacted to contact the EAP.

- ▶ Benestar Employee Assistance Program (EAP) – 1300 360 364.
Please visit <https://nswact.uca.org.au/staff-intranet/employee-assistance-program-eap/>

Appendix A – Examples of Discrimination, Bullying, Harassment and Sexual Harassment

1. Discrimination

Examples of discrimination include:

- ▶ excluding an individual from training, on the assumption that they're too old to learn
- ▶ denying a promotion to an individual on the basis of their carer responsibilities (often on an assumption that they won't have the flexibility required to meet their responsibilities)
- ▶ performance managing or disciplining a person on the basis of absence from work due to illness (regardless of whether the illness is physical or psychological)

An example of **indirect discrimination** is including a job requirement which is not essential but which may have the impact of ruling out certain categories of people (e.g. 'a maximum of five years' experience' is likely to discriminate on the basis of age, whether intended or not).

2. Bullying

Bullying can fall into four main categories – physical, verbal/written, social or cyberbullying. Some examples are set out below.

- ▶ **Physical bullying** can include physical abuse such as hitting, pushing, shoving and aggressive and intimidating behaviour (e.g. standing over an individual, making threats of violence), practical jokes and initiation ceremonies; damaging or stealing an individual's belongings
- ▶ **Verbal/written** bullying can include taunting, name-calling, making abusive, humiliating or belittling comments to or about an individual; sending insulting messages by text or email;
- ▶ **Social bullying** can include deliberately excluding or isolating an individual, spreading gossip, rumours or innuendo; making unjustified criticism or complaints; incessantly contacting or badgering; making unreasonable demands of an individual in the performance of their work; undermining performance by withholding vital information;
- ▶ **Cyber bullying** is behaviour that occurs online or through a mobile device and includes online abuse, forwarding or sharing unflattering, sexual or private images of an individual; forwarding or sharing an individual's personal or private information; spreading rumours; incorrectly attributing comments or opinions to an individual in a way that could cause backlash against that individual.

3. Sexual Harassment

Sexual harassment includes:

- ▶ unwelcome physical contact such as deliberately brushing up against, touching, hugging, cornering or kissing another;
- ▶ offensive jokes, suggestive remarks, sexualised nicknames or innuendo
- ▶ unwelcome repeated requests to go out on a date;
- ▶ requests or demands for sex or sex-based acts;
- ▶ inappropriate staring, leering loitering or following (stalking) another person;
- ▶ displaying or circulating sexually explicit material such as pictures, posters, gifts or social media posts or content;

- ▶ sending or sharing sexually explicit or indecent emails, phone calls, text messages, social media posts or online interactions;
- ▶ repeated or inappropriate advances online.

Some behaviour may also be considered an offence under criminal law such as physical assault, indecent exposure, sexual assault, stalking or obscene or threatening communications (including posts on social media).

4. Harassment

Examples of harassment include, but are not limited to any of the behaviours below:

- ▶ telling insulting jokes about particular racial groups;
- ▶ verbal abuse or comments;
- ▶ offensive jokes or gestures;
- ▶ sending explicit or sexually suggestive emails or text messages;
- ▶ displaying racially offensive or pornographic posters or screen savers;
- ▶ making derogatory comments or taunts about a person;
- ▶ asking intrusive questions about someone's personal life, including their sex life;
- ▶ wearing clothing with inappropriate slogans, words or images.