



**Fire &
Rescue NSW**

Preventing and Responding to Bullying and Harassment

Policy and Procedure

Workplace Standards Branch

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POLICY

1 Purpose

Fire & Rescue NSW (FRNSW) is committed to providing a healthy and safe working environment that is free from bullying and harassment. Such behaviour has detrimental effects on those who experience and witness it, on workplace morale and the provision of service to our community. Workplace bullying and harassment will not be tolerated under any circumstances.

The purpose of this policy is to provide a detailed definition and examples of bullying and harassment, describe the impact of such behaviour and promote a risk management approach to prevent and combat bullying and harassment in all FRNSW workplaces. Contained within this document is a set of procedures which outline the steps to take in responding to allegations/complaints of bullying and harassment, and how they are dealt with by FRNSW.

2 Scope and application

This policy applies to all staff of FRNSW, including full and part time staff and contractors, consultants, students and volunteers (henceforth referred to as employees). All employees must abide by the policy and the principles it promotes.

This policy is applicable to any form of contact or communication that is relevant to FRNSW business activities, whether initiated in person, by telephone, fax or email, through another person, or any other means.

3 Legal and policy framework

3.1 Legal framework

Relevant NSW Legislation

- Fire Brigade Regulation 2014
- NSW Anti-Discrimination Act 1977
- Privacy and Personal Information Protection Act 1998
- Public Interest Disclosures Act 1994
- Work Health and Safety Act 2011
- Workplace Injury Management and Workers Compensation Act 1998
- Government Sector Employment Act 2013
- Industrial Relations Act 1996
- Crimes Act 1900
- Crown Employees (Fire and Rescue Permanent Firefighting Staff) Award 2014
- Crown Employees (Fire and Rescue Retained Firefighting Staff) Award 2014

Relevant Federal Legislation

- Racial Discrimination Act 1975
- Sex Discrimination Act 1984
- Disability Discrimination Act 1992
- Age Discrimination Act 2004
- Australian Human Rights and Equal Opportunities Commission Act 1986
- Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013 (Cth)

3.2 Policy framework

This policy is consistent with the following:

- Public Service Commission's *Behaving Ethically Framework* 2014
- Safe Work Australia Code of Practice – How to Manage Work Health and Safety Risks, December 2011, particularly in relation to psychosocial hazards, ie. The effects of work-related stress, bullying, violence and work-related fatigue.
- FRNSW Code of Conduct and Ethics
- FRNSW Resolving Workplace Complaints Policy

4 Our Values

This policy is consistent with NSW Government Sector Values of Integrity, Trust, Service and Accountability, and FRNSW Values.



5 Policy principles

5.1 A respectful and inclusive workplace

All employees must maintain respectful and inclusive workplaces where all employees are treated with dignity, courtesy and respect at all times and in all work locations. Bullying, harassment, vilification, discrimination and other inappropriate behaviour has no place in a respectful and inclusive workplace.

5.2 Prevention and timely resolution

Workplace bullying and harassment creates a risk to health and safety. If left unaddressed, bullying and harassment can become entrenched behaviour which is difficult to change and can damage working relationships beyond repair.

All employees must take appropriate actions if they experience, observe or receive a report that bullying and harassment has occurred.

Managers/supervisors have responsibilities to identify risk factors of bullying and harassment and take appropriate action.

5.3 Fair and impartial treatment of allegations/complaints

All parties to a complaint of bullying and/or harassment are given the opportunity to provide information and express their views in relation to the complaint. The person against whom a bullying or harassment complaint is made will need to be provided with enough information to allow them to respond to the issues that have been raised.

Any decisions made about the outcome of complaints must be evidence based on an objective and thorough assessment of all available relevant information.

5.4 Prompt attention

All allegations/complaints of bullying and/or harassment should be managed in a timely manner. Where uncontrollable factors delay complaint resolution, the complaint handler must inform relevant parties accordingly.

5.5 Confidentiality

All parties have rights and responsibilities in relation to confidentiality. Information relating to a complaint must not be provided to third parties who have no legitimate right to the information. Usually information will only be shared with the complainant, respondent, relevant manager, human resources staff and Union staff (if you are being represented by the Union). Inappropriate release of information relating to a complaint is viewed seriously and will be dealt with as a disciplinary matter.

The situation may arise where an employee makes a complaint of bullying, but wishes his or her identity to be kept anonymous, or in particular, not disclosed to the person against whom the complaint was made. Anonymity usually prevents an adequate investigation of a complaint, in addition to impeding the making of a response. In most circumstances, complainants should be advised that effective action to deal with a complaint requires their identity to be made known.

In some circumstances it will not be appropriate to maintain confidentiality and disclosure of information will be required. These include where:

- There is potential of serious danger to the employee or someone else;
- The conduct is covered by mandatory reporting obligations involving reportable conduct;
- Information is legitimately subpoenaed by a court or otherwise for release by law; or
- A crime, fraud or misdeed has been committed.

5.6 Protection from victimisation and/or harassment

An employee must not victimise or otherwise subject another employee to detrimental action as a consequence of raising, providing information about, or otherwise being involved in the resolution of a concern or complaint.

Any employee who raises an allegation/complaint of bullying and/or harassment that is found to be fabricated, vexatious or malicious and designed to cause harm, will be in breach of the *Code of Conduct and Ethics* and may be subject to disciplinary action.

6 Policy implementation

FRNSW is committed to achieving the principles and requirements of this policy by:

- Providing training to all staff on Respectful Workplace Behaviour, and Bullying and Harassment to increase awareness and communication skills;
- Monitoring workplace trends on bullying and harassment complaints, equity and diversity issues, health and safety risks associated with bullying and harassment;
- Providing information and resources to all staff on bullying and harassment issues.

7 Roles and responsibilities

Continuous vigilance and a culture of mutual respect will help eradicate bullying and harassment from the workplace.

7.1 Employees

All employees of FRNSW have a responsibility to work towards eliminating bullying and harassment from the workplace and to respond promptly to complaints.

All employees who observe inappropriate behaviour have a responsibility to act and say something. Early **SEE ACT SAY** intervention can often eliminate potential bullying behaviours and resolve workplace conflict.

As an employee, you must:

- Not bully, harass, vilify, discriminate or demonstrate any other inappropriate behaviour towards other persons;

- Act in accordance with FRNSW Values at all times;
- Abide by the responsibilities of the FRNSW *Code of Conduct and Ethics* and associated policies;
- Not participate in or condone bullying or harassing behaviour;
- Immediately report any bullying, harassment and other inappropriate behaviour that is experienced, witnessed or brought to your attention;
- Take responsibility for your own actions and attempt to constructively resolve any differences in a respectful manner directly with the persons involved using Straight Talk™ or any other recommended conflict resolution methodology;
- Maintain confidentiality and participate in any resolution procedures in good faith.

7.2 Managers and Supervisors

Managers and supervisors at all levels of FRNSW have primary responsibility for maintaining a workplace environment that is free from bullying, harassment and discrimination and are required to always lead by example by modelling appropriate respectful workplace behaviour.

You are responsible for:

- Not bullying, harassing, vilifying, discriminating or demonstrating inappropriate behaviour towards other persons.
- Understanding your role and responsibilities in regard to preventing and managing workplace bullying and harassment to ensure the workplace is safe.
- Modelling appropriate and respectful workplace behaviours which reflect the Values of FRNSW at all times.
- Treating all employee concerns and complaints seriously, respectfully, impartially and confidentially.
- Redirecting other workplace problems and concerns, which do not involve bullying, harassment or discrimination to the process as outlined in the FRNSW *Managing Workplace Complaints Policy*.
- Being vigilant for conditions that may contribute to bullying in your workplaces and recognising, identifying and managing the types of behaviour that could constitute bullying and/or harassment.
- Monitoring the workplace for early identification and resolution of workplace concerns and conflict.
- Actively promoting and supporting FRNSW workplace bullying and harassment prevention strategies; including the use of Straight Talk™ and Conferencing when required.
- Taking prompt and timely action to report suspected bullying and harassment cases to Workplace Standards.

- Provide support, as is appropriate, for all employees affected by a complaint during the process. This may include referring employees to the EAP or other support services as appropriate.
- Ensuring all actions taken to manage a bullying complaint are appropriately documented.
- Implementing recommendations arising from the outcomes of investigations or disciplinary action in a timely manner.
- Monitoring workplace relationships following the resolution of a concern, conflict or allegation of bullying.

7.3 Workplace Standards

Workplace Standards has a responsibility to:

- Provide information and advice to all employees on work related bullying and harassment issues.
- Assess complaints of workplace bullying and harassment to determine the appropriate action to be taken.
- Assist in implementing organisation-wide strategies to control and eliminate risk associated with bullying, harassment and discrimination.
- Facilitate the engagement of external investigators or mediators to investigate and/or resolve cases of bullying, harassment and discrimination as appropriate.
- Monitoring the implementation of this Policy to ensure it remains appropriate and consistent with good practice.

8 What is bullying?

Workplace bullying refers to behaviour which is offensive, intimidating, intended to humiliate or threatening and is directed at a employee or a group of employees, and occurring in the course of, or related to, work in FRNSW.

The official definition of bullying provided by Safe Work Australia 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.

A single incident of unreasonable behaviour is not considered to be workplace bullying however it may have the potential to escalate and should not be ignored.

In the context of the above definition, bullying behaviour can take many forms. Workplace bullying can be:

- Intentional or unintentional behaviour that did, or would be reasonably be expected to, offend, intimidate, humiliate or threaten a member of staff.
- Action (verbal abuse, humiliation etc).
- Inaction (withholding essential work related information).
- Upward (employee bullies manager) or downward (manager bullies his/her staff) or horizontal (peer bullies peer). Bullying can occur at all levels in FRNSW.
- Perpetrated by individuals or groups (group of employees ostracising another employee). The term workplace mobbing is sometimes used to refer to abusive group behaviour that is prolonged or systematic in nature, and may include upward bullying, downward bullying or horizontal bullying.

While some workplace bullying may be direct and involve verbal abuse and physical violence, bullying can also be indirect and involve subtle intimidation. Workplace bullying can be carried out via letters, emails, telephone, text messages or via social media platforms.

There is no finite list of bullying behaviour. Examples of behaviour, whether intentional or unintentional, that may be considered to be workplace bullying if they are repeated, unreasonable and create a risk to health and safety include (but are not limited to):

- Abusive, insulting or offensive language or comments, including telephone and email messages.
- Using offensive objects or images in order to embarrass or humiliate
- Continuously and deliberately excluding someone from workplace activities.
- Withholding or denying access to information or resources that are vital for effective work performance.
- Setting unreasonable timelines or constantly changing deadlines without a sufficient reason.
- Setting tasks that are unreasonably above or below an employee's ability.
- Interfering with a person's personal effects or work equipment for no valid reason.
- Teasing or regularly making someone the brunt of pranks and/or practical jokes.
- Inappropriate comments about a person's appearance, lifestyle or their family.
- Spreading misinformation, gossip or malicious rumours.
- Deliberately sabotaging a person's work.
- Offensive telephone messages.

- Encouraging other employees to participate in bullying behaviour.
- Initiation practices.

8.1 What is Cyber-Bullying?

Cyberbullying is commonly defined as the use of information and communication technologies to support repeated and deliberate hostile behaviour intended to harm others.

Forms of cyberbullying include, (but are not limited to):

- Flaming – heated exchanges
- Harassing and threatening messages – such as ‘text wars’
- Denigration – sending nasty SMS, pictures, or prank phone calls, nasty comments
- Impersonation – using a person’s screen name or password without their permission
- Outing or trickery – sharing private personal information, messages, pictures with others, posting ‘set up’ images or videos
- Ostracism - Intentionally excluding others from an online group
- Sexting - sharing explicit material by mobile phone
- Any other bullying/harassment using social media platforms, e.g. Facebook

Cyber-bullying can be particularly damaging because it can occur 24 hours a day, 7 days a week and also because it can be visible to many other people.

Behaviour such as threats to harm someone, violence and damage to property can be criminal matters which should be referred to the NSW Police Force.

9 What is not workplace bullying?

It is important to distinguish between a person reasonably exercising their legitimate authority at work in a proper and reasonable way, and instances of bullying. Managers and supervisors have a broad range of responsibilities including directing and controlling how work is performed. Feedback provided properly with the intention of assisting staff to improve performance or behaviour does not constitute bullying.

Further, differences of opinions, interpersonal conflicts and problems in working relationships are part of working life and do not constitute workplace bullying.

The following are some examples of incidents that **DO NOT** constitute bullying:

- Relatively minor workplace incidents, such as low level arguments, differences of opinion or interpersonal conflict.
- Making a complaint about an employee, or manager’s conduct, if the complaint is made in good faith and in a reasonable way.

- Providing constructive feedback, counselling or advice about work related behaviour and performance, including managing performance / underperformance issues.
- Undertaking industrial action in accordance with union directives.
- Legitimate management decisions or actions taken in a reasonable way, including:
 - ensuring that workplace policies are implemented.
 - implementation of business processes such as organisational change.
 - issuing lawful directions to staff e.g. taking action to transfer an employee.
 - allocating work to an employee and setting reasonable goals, standards and deadlines.
 - making a decision not to select an employee for promotion or other development opportunity.
 - warning employees about unsatisfactory performance and allocating work in compliance with approved systems and policies.
 - Holding reasonable discussions with an employee about leave and/or attendance issues.

Should you have any queries about whether certain behaviour constitutes bullying or not, advice and support is available from the Workplace Standards Branch.

10 What is harassment?

Harassment is any form of behaviour that:

- is unwanted, unwelcome or unsolicited;
- offends, humiliates or intimidates; and
- targets the person because of their sex, pregnancy, race, age, marital or domestic status, homosexuality, disability, transgender (transsexual) status, carers' responsibilities or any other attribute covered by anti-discrimination law.

Behaviour which may constitute harassment may include (but is not limited to):

- verbal abuse or comments that put down or stereotype people;
- telling derogatory or demeaning jokes intended to offend on the basis of stereotyped characteristics; or
- making derogatory remarks about someone's race, religion and customs.

10.1 What is sexual harassment?

Anti-discrimination law defines sexual harassment as unwanted sexual advances, or unwelcome requests for sexual favours; or other unwelcome conduct of a sexual nature that in the circumstances would cause a reasonable person to feel offended, humiliated, or intimidated.

Examples of sexual harassment include (but are not limited to):

- uninvited touching;
- uninvited kisses or embraces;
- sexual or smutty jokes and comment, including innuendo;
- making promises or threats in return for sexual favours;
- use of mobile devices to take photos, videos or send messages;
- unwanted offensive or displays of sexually graphic material including posters, pin-ups, cartoons, screensavers, graffiti or messages on notice boards, lockers, desks, computer screens;
- sexual insults or taunting;
- unwanted, offensive or pornographic materials using FRNSW equipment or sent to FRNSW employees;
- repeated invitations to go out especially after being refused previously;
- asking persistent or intrusive questions or making comments about an individual's personal life, including their sex life;
- flashing or sexual gestures;
- sex-based insults, taunts, teasing or name-calling;
- staring or leering at a person or at parts of their body; and
- unwelcome physical contact such as massaging a person without invitation or deliberately brushing up against them.

A single incident of sexual harassment is enough to constitute an offence.

Some types of harassment can be offences under the Criminal Law and will be reported to the NSW Police Force. They include, but are not limited to:

- **physical molestation or assault;**
- **indecent exposure;**
- **sexual assault;**
- **stalking; and**
- **obscene communications (phone calls, letters, etc.)**

Sexual harassment is NOT:

Flirting, attraction, sexual interaction, discussion or friendship that is invited, consensual and reciprocated and conducted in private or in a way that would not cause offence to others does not constitute sexual harassment.

As with workplace bullying, behaviour assessed on the evidence as amounting to harassment will be viewed seriously and may lead to disciplinary action up to and including termination of employment.

11 What is discrimination?

All FRNSW employees are subject to the provisions of the NSW Anti-Discrimination Act 1977, under which it is unlawful to discriminate in employment or in providing a service on the grounds of:

- a person's race, sex (including pregnancy), disability, marital status, age, homosexuality, transgender or carer's responsibilities; a person's presumed or perceived disability, homosexuality, transgender or carer's responsibilities;
- the sex (including pregnancy), race, disability, marital status, age, homosexuality or transgender of their associate or relative; and
- and the presumed or perceived disability, homosexuality, or transgender of their associate or relative.

Discrimination based on sex, race, or disability is also unlawful under Commonwealth anti-discrimination laws. Illegal discrimination is behaviour that causes offence, humiliation or intimidation on the basis of an attribute that has been protected under law e.g. race, gender.

Discrimination is different from harassment because it involves 'unfavourable treatment' on the basis of characteristics covered by anti-discrimination legislation.

Examples of discrimination include (but are not limited to):

- Being fired for falling pregnant
- Not being hired due to a person's religion
- Not hiring a man to be a receptionist
- A manager telling a female employee that they will not get a promotion because her family responsibilities make her unreliable or unable to perform a demanding job.

12 What is vilification?

Vilification is a form of unlawful discrimination which may appear as bullying behaviour. Vilification is generally any act:

- that happens publicly (rather than privately); and
- that could incite (encourage, urge or stir up) others to hate, have serious contempt for, or have severe ridicule of an individual or a group of people, because of race, colour, nationality, descent, ethnic, ethno-religious or national origin, homosexuality, HIV or AIDS status or transgender status. This includes vilification because an individual is thought to be lesbian, gay or transgender, or to have HIV or AIDS.

As with workplace bullying and harassment, behaviour assessed as amounting to possible vilification may be dealt with as a disciplinary matter.

13 Criminal behaviour

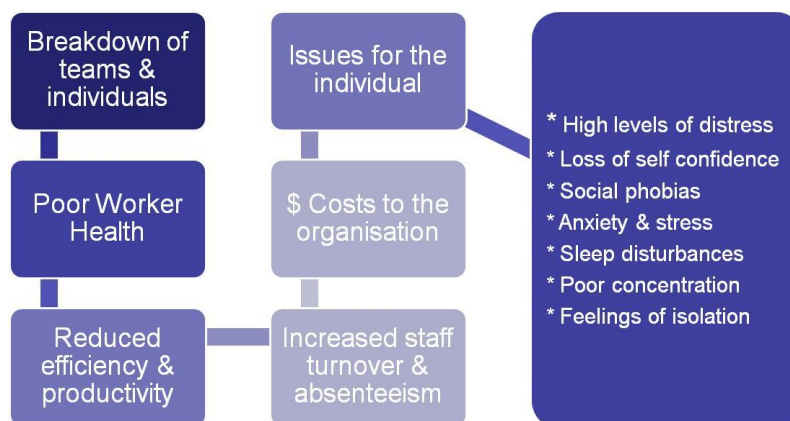
In some instances workplace bullying or harassment may also amount to a criminal offence, for example physical assault, indecent exposure, stalking or threatening telephone calls. These offences may result in criminal prosecution, in addition to disciplinary action.

14 Effects of workplace bullying and harassment

Workplace bullying and harassment has detrimental effects on those who experience and witness it, on workplace morale and the provision of service to our community.

Workplace bullying and harassment which is not addressed can result in absenteeism, reduced staff productivity and motivation, and loss of experienced and skilled staff through resignation.

Bullying and harassment can also affect others in the workplace in a similar way, even when they are only witnesses to the bullying and are not subject to the bullying themselves. These effects are summarised in the diagram below.



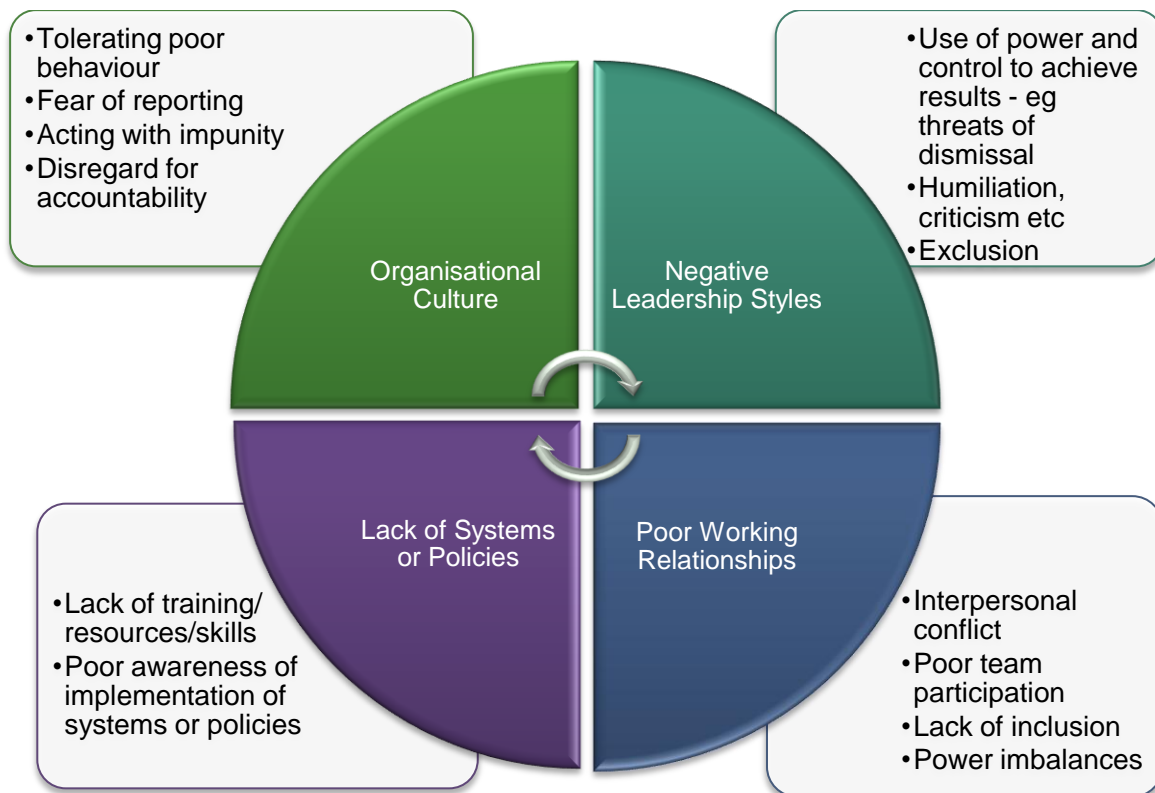
15 Policy implementation

This section provides information on how FRNSW will achieve the principles of this policy.

15.1 Risk Factors – identifying and assessing risk

A risk management approach aims to create a work environment that eliminates or controls the circumstances that can lead to bullying and harassment. FRNSW is committed to ensuring the workplace conditions that might facilitate or encourage bullying or harassment are addressed, managed and removed from the workplace. The premise is that “prevention is better than the cure”.

The following diagram illustrates risk factors or conditions that, if left unchecked, may lead to workplace bullying and harassment.



Identifying and assessing the risk in the local workplace can be determined by observing whether:

- Employees and managers are communicating in a manner that aligns with FRNSW Values
- Employees understand and acknowledge bullying will not be tolerated
- Employees treat each other with respect and use early intervention methods such as Straight Talk™ to resolve misunderstandings
- All employees are aware of and trained in behavioural standards
- Any deterioration in workplace relationships is monitored
- Employees know how to raise a complaint and are aware of staff support mechanisms
- Policies are understood and can be accessed
- Managers know how to respond to bullying.

15.2 Managing and controlling risk

Controlling the risk of bullying involves implementing preventative measures to eliminate, avoid or minimise the risk of harm. These include:

- Raising awareness and actively educating employees about FRNSW values, expected behaviours, policies and procedures, including the FRNSW Code of Conduct;
- Clearly stating a policy of intolerance for bullying behaviour;
- Ensuring employees understand what behaviour does, and does not, constitute bullying;
- Ensuring employees are aware there is a clear process for raising a complaint of bullying or other workplace complaints;
- Ensuring employees have a good understanding of their roles and responsibilities;
- Ensuring managers are trained and respond promptly and effectively to complaints related to bullying;
- Ensuring employees demonstrate and understand a commitment to FRNSW Values and FRNSW Code of Conduct.

16 Breaches of this policy

Breaches of policy must be reported to a manager or Workplace Standards. Any employee found in breach of this policy may be subject to disciplinary action up to and including termination of employment.

17 Monitoring and review

Compliance with this policy may be subject to regular audits and ongoing monitoring. This policy will be reviewed annually. Further information can be obtained from the Workplace Standards Branch.

PROCEDURES

18 Reporting Workplace Bullying/Harassment

1. Approach the other person

If you experience or witness behaviour you believe to be either bullying or harassment, and you feel safe and comfortable to do so, make it clear to the other person that the behaviour is unwanted, unacceptable and will not be tolerated. Failure to take action reinforces the inappropriate behaviour, and if not addressed it may worsen.

The person in question may be completely unaware of their behaviour and its impact on other people, and may apologise and/or cease the behaviour immediately.

You may find the Straight Talk™ framework helpful in providing a platform to approach the situation. Straight Talk™ is a two-way dialogue which aims to increase understanding of each other's point of view and find a mutual agreement on future behaviours. Further information regarding this methodology can be found in the *Resolving Workplace Complaints* policy and on the Workplace Standards intranet page.

It is also advisable to keep notes about the situation (time, date, location, any witnesses and what was said) and inform your manager of the situation if appropriate.

Timeframe: You should try to approach the person **as soon as possible** after the incident in question.

2. Approach your manager or another senior manager

If you do not feel comfortable approaching the person, you should speak to your manager/supervisor regarding the incident and provide them with any documentation you may have.

If the issue involves your manager/supervisor or you do not feel comfortable speaking to them, the matter should be reported to the next line manager (that is, your supervisor's manager) or directly to Workplace Standards.

Please note that in reporting bullying or other inappropriate behaviour, on some occasions (for example if the allegation relates to a supervisor), you do not need to follow the chain of command. Reports can be made to, or advice sought from Workplace Standards at any time.

Timeframe: You should try to approach your manager, or other senior manager, as soon as possible after the incident in question.

Should you wish to lodge a formal complaint about an allegation of bullying or harassment, it is advisable to put your complaint in writing, detailing all available information about the incident, including anyone who witnessed the event. You then can elect to give it to your manager, a senior manager or directly to Workplace Standards.

In the event that serious allegations are raised, the matter will be investigated, notwithstanding a complainant request not to do so.

19 Assessing complaints – for managers/supervisors

If the person who receives the complaint is below the level of Inspector (or equivalent) they must refer the matter to their supervisor/manager.

The senior manager will conduct an initial assessment and make recommendations on appropriate actions. The senior manager must refer the matter to Workplace Standards for approval before taking any further actions to resolve the matter.

The manager/supervisor:

- Should consider whether it is appropriate for them to assess the matter (e.g. do they have a conflict of interest?).

- Must treat the complaint seriously, respectfully, impartially and confidentially.
- Must undertake an objective assessment of the complaint as soon as possible.
- Should gain an understanding of the issues raised and assess whether the alleged behaviour is workplace bullying or harassment and falls within the scope of this policy.
- Should keep confidential notes of any discussions at the assessment stage.

The following questions are designed to help the manager/supervisor establish an assessment of the duration, frequency, severity and impact of the alleged bullying and/or harassing behaviour:

- What is the actual behaviour alleged to have occurred and what is the context?
- When did the alleged behaviour take place?
- How frequently has the complainant been subject to the alleged behaviour?
- Has the alleged behaviour ceased? When did it stop?
- How many people are involved? What are their relationships to the complainant?
- Has this issue been raised in the past? If so, what action has been previously taken to resolve the issue?
- What does the complainant want to happen?
- What initial explanation or response is available from the person who is the subject of the complaint?

If, as a result of the initial assessment, the supervisor/manager assesses the alleged behaviour as workplace bullying or harassment, **it is mandatory to refer the matter immediately to Workplace Standards.**

If there is any doubt about whether or not the alleged behaviour falls within the scope of this policy, the manager/supervisor must discuss the matter with Workplace Standards who will advise on the appropriate course of action.

Where the employee's health and safety may be at immediate risk, due to the reported behaviour, the supervisor/manager must consult with senior Zone management, Workplace Standards and/or the Health and Safety Branch, and ensure that the employee is provided with immediate support. In such cases, it may be advisable that the employee and alleged perpetrator are temporarily separated, pending further action.

Some employees involved in bullying or harassment complaints may feel uncomfortable and stressed, therefore it is important employees are reminded of the support services available to them throughout the process.

It should be noted that if an allegation/complaint of bullying and harassment is raised during performance management or a disciplinary process, action should be taken to resolve the allegation/complaint in terms of the policy and procedure. However, providing it is legitimate and reasonable, the performance or disciplinary process should continue independently.

Timeframe: Managers/supervisors must acknowledge receipt of the allegation/complaint within 1 working day after being informed of the incident.

The initial assessment should be conducted in a timely manner, ideally within 3-5 working days.

20 Assessment by Workplace Standards

20.1 Acknowledgment

Workplace Standards will acknowledge and review the complaints/allegations received within **1 working day**.

20.2 Review of initial assessment

Workplace Standards will review the initial assessment, based on the following criteria:

1. Does the alleged behaviour constitute bullying, harassment, sexual harassment, discrimination or vilification as per the definitions in this policy?
2. Does the alleged behaviour amount to misconduct as per the *Procedural Guidelines for the Management of Conduct or Government Sector Employment Act*?

20.2.1 Matters which do not amount to bullying and harassment

There are many examples of workplace situations involving conflict between staff which may give rise to concerns or complaints of bullying and/or harassment from one or both parties. However, not all these situations will meet the criteria of bullying as defined in this policy. A decision by FRNSW not to deal with a matter as bullying or harassment should not be interpreted that the matter has been assessed as trivial or unimportant, or that some sort of action is not required. Even if the alleged behaviour does not constitute bullying or harassment, it may still be unacceptable and unprofessional behaviour in the workplace.

Such matters will be considered for further action under the *Resolving Workplace Complaint Policy, Procedural Guidelines for the Management of Conduct or Government Sector Employment Act 2013*. Workplace Standards will advise the complainant and/or the referrer of the nature and reasons for the decision in writing.

20.2.2 Investigations

Even if behaviour does amount to misconduct it is not always necessary to conduct an investigation into the matter. Where possible action should be taken to prevent a continuation of the inappropriate behaviour and focus on managing and repairing, as far as possible, future working relationships.

An investigation may be necessary where there are complex issues which require clarification for the complaint to be dealt with, or where the complaint makes credible assertions of serious misconduct. The purpose of an investigation is to gather and analyse all

relevant information to help identify whether or not the complaint is able to be substantiated, and whether there are any extenuating circumstances or other contributing factors that may need to be considered.

If an allegation/complaint is to be further investigated, a suitably qualified person will be appointed to investigate. The conduct of an investigation will vary depending upon the particular case, its circumstances and the complexity of the issues, incidents and facts of the matter. Generally speaking, this phase will include formal interview(s) with the complainant, respondent(s) and any relevant witnesses. Parties to the allegation/complaint may be asked to provide a written statement and must keep all matters relating to the allegation/complaint strictly confidential

It should be noted that some allegations/complaints may be referred to an investigator or company external to FRNSW.

Timeframe: Information gathering and review by Workplace Standards will occur within 2 working days from receipt of the allegation/complaint. More complex cases may take longer.

20.3 Decision on further action

Where Workplace Standards determines that the alleged behaviour amounts to misconduct, appropriate management of the matter will be undertaken in accordance with conduct and discipline guidelines. Depending on the outcome of the investigation, this may result in management and/or disciplinary action under the:

- *Procedural Guidelines for the Management of Conduct Fire Brigades Regulation 2014*; or
- *Government Sector Employment Act 2013*.

Possible disciplinary outcomes include management action up to and including termination of employment. The form of action to be taken must be decided on a case by case basis.

Where Workplace Standards determines that the alleged behaviour does not amount to misconduct then action may be undertaken in accordance with appropriate policies and guidelines, for example the *Resolving Workplace Complaints Policy*.

Where a complaint involves a 'serious indictable criminal offence', such as indecent assault which may involve a sexual act, sexual assault or wounding or grievous bodily harm, Workplace Standards will ensure that the matter has been reported to the Police.

Timeframe: If an investigation is required, this process may take longer with complex cases, however in most cases, should be completed within 4 weeks

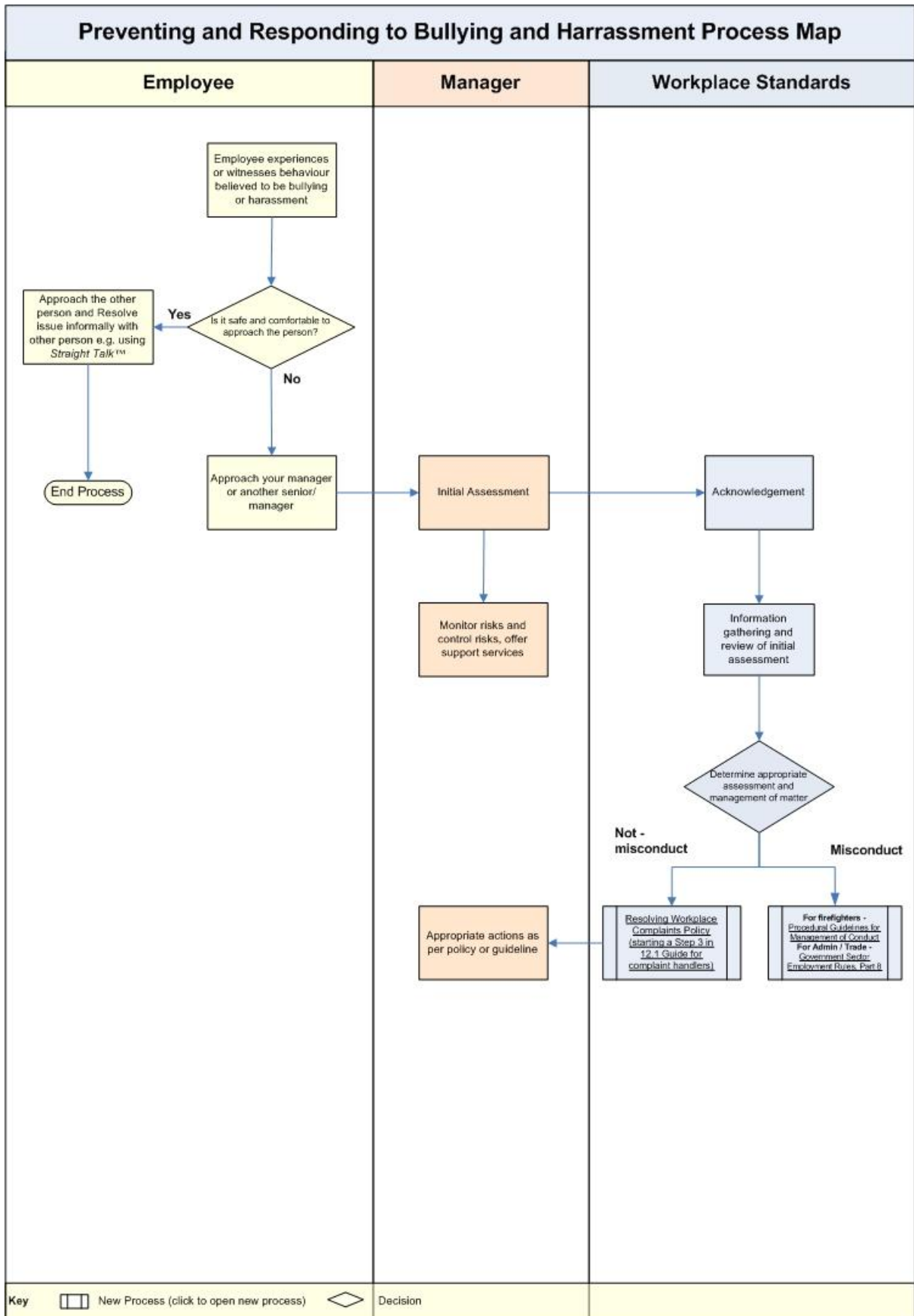
Workplace Standards will write to advise the complainant of the outcome as soon as the matter has been finalised.

21 Vexatious complaints

Where the evidence suggests that a complaint of bullying or harassment is not made honestly and was intentionally malicious or vexatious, the matter will be viewed seriously and will be investigated. Depending on the outcome of the investigation, this may result in disciplinary action up to and including termination of employment.

22 Process Map

The process map of how allegations of bullying and harassment are managed is shown on the following page.



23 Training and support

Advice and support is available from Workplace Standards. Employees may seek the support of an industrial association representative or a colleague at any stage during the complaint resolution process.

Please note that a range of courses including Respectful Workplace Training are available at FRNSW Training College.

More information is available by contacting:



9318 4302



<http://intranet/training>



<https://learninghub.fire.nsw.gov.au/login/index.php> (online training)

23.1 Internal support

Employee Assistance Program

- The Employee Assistance Program (EAP) provides state-wide, confidential, professional counselling services for employees and members of their family.
- Employees with a complaint and employees against whom a complaint has been raised may wish to use this free service.
- Managers can also use the EAP's Manager's Assist service to receive advice and support when handling a complaint of bullying or harassment.
- The contact number for the EAP provider is 1300 361 008 (24 hours a day, seven days per week).

FRNSW Chaplains

- The FRNSW Chaplains can also provide confidential counselling and support to employees and their families.
- To speak to a Chaplain, please contact 0418 869 280 or 0418 268 754. The Chaplains can also be contacted via email: chaplain@fire.nsw.gov.au.

Wellbeing Co-ordinator

- The Wellbeing Co-ordinator also offers a confidential and independent advice about a range of counselling, welfare and support options that are available to employees and their immediate family members when they are experiencing work or personal difficulties.
- The Wellbeing Co-ordinator can help facilitate access to these services and provide further information on the EAP service. The Wellbeing Coordinator can be contacted on 0448295725.

Workplace Standards




- The Workplace Standards team consists of qualified and experienced investigators, advisors and project officers available to assist employees and managers with information, resources and guidance on a number, including bullying and harassment.
- If you have a workplace situation you wish to discuss please contact 9265 2826 between 9.00am and 5.00pm or via email at workplacestandards@fire.nsw.gov.au.

Health and Safety Branch

- The Health and Safety Branch helps play an important role in hazard identification and risk management, and are well positioned to contact for advice.
- The Health and Safety Branch have produced a Stress Management series of self-help guides and fact sheets which can be accessed via their intranet site. If you have any difficulty in locating or downloading this material, please contact the Health and Safety Branch on 9265 2800.

23.2 External support

Work Cover – for safety matters including bullying and harassment

 13 10 50
 www.workcover.nsw.gov.au/Pages/default.aspx
 contact@workcover.nsw.gov.au

NSW Anti-Discrimination Board – for matters related to discrimination and harassment

 9268 5544
 adbcontact@agd.nsw.gov.au
 www.antidiscrimination.justice.nsw.gov.au/

Australian Human Rights Commission – for matters related to discrimination, harassment and bullying

 9284 9600
 www.humanrights.gov.au
 infoservice@humanrights.gov.au

24 Further information

Further information about this policy and to discuss any issues concerning bullying and harassment, please contact a member of Workplace Standards.

Ph: 9265 2826

Email: workplacestandards@fire.nsw.gov.au

Intranet page: <http://intranet/directorates/corporate-services-and-governance/human-resources/workplace-standards>

25 Document information

Related documents

List any related documents, such as templates, recommended practices, guidelines or procedures.

Document control

| | |
|------------------------|--|
| Policy Manager | Assistant Director Workplace Standards |
| Contact Officer | Jennifer Williamson |
| Contact No | 9265 3954 |
| Document type | Policy |
| Applies to | <input checked="" type="checkbox"/> Permanent Firefighters <input checked="" type="checkbox"/> Retained Firefighters <input checked="" type="checkbox"/> Community Fire Unit Members <input checked="" type="checkbox"/> Administrative and Trades Staff <input checked="" type="checkbox"/> Contractors and Consultants |
| Status | Final |
| Security | Unclassified [or other appropriate classification in accordance with the Information Security Policy] |
| File Reference | FRN12/2493-07 |
| Review Date | December 2017 |
| Rescinds | <i>Preventing and Managing Workplace Bullying Policy</i> |
| Copyright | © State of New South Wales through Fire and Rescue NSW |

Revision history

| Version | Date | Status | TRIM Ref | Details |
|---------|----------|--------|----------|---------|
| 1 | December | Final | | |