

Equal Employment Opportunity (EEO), Discrimination, Harassment and Workplace Bullying Policy

1 Introduction

1.1 The Transport Professionals Association (formerly AITPM) ("the Company") supports equal employment in the workplace and eliminating unlawful discrimination, bullying and harassment in the workplace. This policy is intended to provide managers and employees with information to help the Company achieve its policy objectives by outlining expectations of behaviour and procedures for dealing with complaints.

2 Scope

2.1 The Equal Employment Opportunity (EEO) and Discrimination, Bullying and Harassment Policy is applicable to all employees, agents, volunteers and contractors ('Workers').

2.2 Workers must comply with the policy at all times during work (even outside of ordinary working hours), when representing or acting on behalf of the Company and at work related events and social functions. This policy also applies where there is a relevant connection to the workplace or where there is a significant effect on the workplace (e.g. posting a discriminatory message about a Worker or customer on a social media platform). The phrase 'in connection with work' used in the context of sexual or sex-based harassment includes:

- i. Unlawful conduct that is connected to the person's performance of their duties. It can include conduct that is outside of standard hours and can include conduct performed in person or online whether using the Company's equipment or not;
- ii. Activity authorized or permitted by the Company, for example, a work-related function or event;
- iii. Conduct that occurs in a location that the person could reasonably be expected to be whilst at work, for example, in a lunchroom, in a lift, bathroom or car park;
- iv. Unlawful conduct between Workers;
- v. Unlawful conduct towards persons with whom Workers come into contact in connection to their work – e.g. customers, other members of the public; and/or
- vi. Unlawful conduct by third parties towards Workers in connection with their work – e.g. customers, members of the public

2.3 Behaviour that is inconsistent with this policy will not be tolerated and depending on the severity may lead to disciplinary action including termination of employment or engagement

3 Equal Employment Opportunity

- 3.1 It is the policy of the Company that all persons in the workplace be treated on the basis of merit and according to their skills and abilities. This shall include, but is not limited to, matters involving:
- i. Recruitment, selection, transfers, promotions, performance reviews, training and development, task allocation, supervision and management of staff, counselling, disciplinary procedures and termination of employment; and
 - ii. Remuneration practices and benefits.
- 3.2 A Workers gender, marital status, pregnancy, parental or family responsibilities, race, age, physical or mental disability, sexual orientation, transgender, political or religious beliefs, social origin, trade union activity or inactivity or any other attribute prohibited by law will not form the basis of employment or engagement decisions.

4 Discrimination and Harassment

- 4.1 The Company believes that all Workers have a right to work in a productive environment in which unlawful discriminatory conduct or harassment of others is not tolerated.
- 4.2 Unlawful discrimination and harassment can have many negative effects in the workplace. Workers who are subjected to, or witness this type of treatment often feel intimidated or anxious at work.

4.3 What is Unlawful Discrimination?

- 4.3.1 Unlawful discrimination may occur when a Worker is treated less favourably than others because of that person's individual characteristics or because that person belongs to a particular group of people. Discrimination does not have to be calculated or intentional to be unlawful. The intention of the person discriminating is irrelevant. Basically, two types of unlawful discrimination can occur in the workplace:
- i. Direct Discrimination - this occurs when an individual treats another person less favourably for an unlawful reason.
 - ii. Indirect Discrimination - this occurs when a policy or practice appears neutral but in fact results in an individual or group being treated less favourably.
- 4.3.2 Employment decisions may be unlawful if they are made on the basis of a person's:
- i. Sex (including marital status, pregnancy or potential pregnancy);
 - ii. Race (including colour, descent, nationality, ethnic or ethno-religious origin);
 - iii. Sexual orientation, intersex status and gender identity (including sexual preference, transgender status);
 - iv. Age;
 - v. Marital status;
 - vi. Family or carer's responsibilities;
 - vii. Pregnancy and breastfeeding (including the expression of milk or the preparation to express milk and storage of milk);
 - viii. Religion;

- ix. Political opinion/ activities;
- x. Irrelevant criminal records;
- xi. Disability, disease or injury;
- xii. Industrial activity (including trade union activity or not deciding to join a union);
- xiii. An association with someone who has, or is assumed to have one of these characteristics.

4.3.3 It is also unlawful to treat someone unfavourably because you assume they have a personal characteristic or may have it at some time in the future.

4.3.4 The following examples may constitute unlawful discrimination in the workplace:

- i. A pregnant employee being pressured to resign prior to taking any maternity leave; or
- ii. Making the decision not to hire a Worker on the basis of the person's ethnicity.

4.3.5 All Workers have an obligation not to discriminate in the course of their employment. If a Worker witnesses another Worker engage in discrimination, the Worker has an obligation to report such conduct to the Company as soon as possible following the Company's ordinary grievance procedure.

4.4 Sex-based Discrimination

4.4.1 The Sex Discrimination Act 1984 (SD Act), also prohibits discrimination on the ground of sex. Sex-based discrimination occurs when the discriminator treats a person less favourably than, in circumstances that are the same or substantially the same, the discriminator would treat a person of a different sex. The conduct must relate to:

- i. the sex of the person harassed;
- ii. a characteristic that appertains generally to persons of the sex of the person harassed (this covers instances where someone is harassed because of a characteristic associated with members of that person's sex, such as anatomical attributes. For example, a male staff member being belittled by a colleague for having an "excessively high-pitched voice", "sounding more like a girl than a boy" and wearing a pink shirt to work instead of the stereotypical blue shirt for males); or
- iii. a characteristic that is generally imputed to persons of the sex of the person harassed (this includes harassment on the grounds of gendered stereotypes, including characteristics generally imputed by society to one sex or the other, such as caring responsibilities being the domain of women).

4.4.2 A person who causes, instructs, induces, aids or permits another person to do any of the above conduct may be taken to have engaged in discrimination on the ground of sex.

4.4.3 Discrimination does not have to be wilful or intentional to be unlawful. The person engaging in discriminatory conduct may not be aware that their conduct is discriminatory. However, whether the person had knowledge or intention to act in a discriminatory manner is not a relevant consideration when determining whether the person is responsible for the conduct.

4.5 What is Harassment?

4.5.1 Harassment is any uninvited or unwelcome behaviour that is based on one of the unlawful reasons that a reasonable person would anticipate might offend, humiliate or intimidate another person,

whether or not that effect is intended.

4.5.2 Harassment may occur as a single act, or as a series of incidents, persistent innuendoes or threats. It can take many forms: it may be silent or loud, subtle or openly hostile; it can be private or public.

4.5.3 Harassment specifically aimed at people with a particular attribute listed above may amount to discrimination, which is unlawful.

4.6 Sex-based Harassment

4.6.1 Sex-based harassment involves behaviour that is sexist and demeaning in nature, but that is not necessarily sexual. Sex-based harassment is unwelcome conduct of a demeaning nature that is engaged in because of the person's sex, or a characteristic that is generally connected to or attributed to the person's sex, in circumstances which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated by the unwelcome conduct.

4.6.2 Sex-based harassment may be verbal or written. Additionally, a person who causes, instructs, induces, aids or permits another person to do any of the above conduct may be taken to have engaged in sex-based harassment. Examples of sex-based harassment may include:

- i. Using offensive or derogatory language related to an individual's sex, including sexist comments, slurs or jokes that belittle or demean someone based on their sex;
- ii. Asking intrusive personal questions based on a person's sex;
- iii. Asking intrusive or inappropriate questions about an individual's gender identity, body, or personal life that make them feel uncomfortable or targeted.

4.7 Sexual Harassment

4.7.1 Sexual harassment in the workplace, generally includes any unwelcome conduct of a sexual nature which a reasonable person would find offensive. It may be physical, verbal or written. Additionally, a person who causes, instructs, induces, aids or permits another person to do any of the above conduct may be taken to have engaged in sexual harassment.

4.7.2 Certain conduct that may be tolerated socially could constitute sexual harassment in the workplace when it is unwelcome. At the same time, sexual harassment must not be confused with conduct that has the consent of all involved. Behaviour that is based on mutual attraction, friendship and respect is not likely to constitute sexual harassment as long as the interaction is consensual and reciprocated.

4.7.3 All Workers have an obligation not to engage in sexual harassment in the course of their employment. If a Worker witnesses another Worker engage in sexual harassment, the Worker has an obligation to report such conduct to the Company as soon as possible following the Company's ordinary grievance procedure.

4.7.4 Sexual harassment is considered as serious misconduct and will not be tolerated by the Company under any circumstances.

4.7.5 The Company is committed to maintaining a working environment which is free from sexual harassment and is not hostile on the grounds of sex. The Company regards sexual harassment and the creation of a hostile environment on the grounds of sex, as a serious issue and aims to treat any complaints in a sensitive, fair and confidential manner.

4.8 Examples of Sexual Harassment

- 4.8.1 The following examples may constitute sexual harassment when they are offensive to a Worker, regardless of any innocent intent on the part of the offender:
- i. The public display of pornography, including on the Internet;
 - ii. Continued use of jokes containing sexual innuendo;
 - iii. Intrusive enquiries into another Worker's private life, their sexuality or physical appearance;
 - iv. Persistent requests from a colleague to go for a drink where such requests have been consistently declined;
 - v. Persistent staring or leering at a person or parts of their body;
 - vi. Sexually offensive telephone calls or text messages;
 - vii. Requests for, or expectations of, sexual activity under threat, or in exchange for favours or promises of preferential treatment;
 - viii. Deliberate or unnecessary physical contact, such as groping, patting, pinching, fondling, deliberate brushing up against another body, or attempts at kissing;
 - ix. Public displays of nudity - commonly referred to as flashing;
 - x. Sexual violence at the most extreme, sexual assault and forced attempts at sexual intercourse which may also be an offence under criminal law.
- 4.8.2 This is not an exhaustive list as there are many different actions that may constitute sexual harassment. They are useful examples which show the wide range of actions that may fall within the definition of sexual harassment.
- #### **4.9 Hostile Working Environments**
- 4.9.1 The SD Act also prohibits conduct that subjects another person to a workplace environment that is hostile on the grounds of sex. Sexual harassment may occur where a workplace environment is sexually charged or hostile, creating a feeling of unwelcome or exclusion by a person, even if the specific conduct is not directed at a particular person.
- 4.9.2 Unlike the other forms of harassment, subjecting a person to a hostile work environment on the basis of sex does not have to be directed at a specific person. A person subjects another person to a hostile work environment on the ground of sex if the person engages in the conduct where that person and the second person is in the workplace at the same time as or after the conduct has occurred and a reasonable person considering all the circumstances, would have anticipated the possibility of the conduct resulting in the workplace environment being offensive, intimidating or humiliating to a person of a particular sex.
- 4.9.3 An example of a workplace being a hostile environment on the grounds of sex can include a workshop hanging pictures of naked women. Such conduct can result in an offensive, intimidating and humiliating environment for people of one sex, which is unlawful.
- 4.9.4 Sex discrimination, sex-based harassment, sexual harassment and conduct that creates a hostile work environment on the basis of sex, or a characteristic that is generally connected to or attributed to the person's sex:

- i. Does not:
 - Require the person effected by the conduct to object to the conduct; and
 - Need to be wilful or intentional
- ii. Can occur:
 - Irrespective of the sex or characteristic of the person engaging in the conduct;
 - As a one-off incident or pattern of conduct; or
 - At all levels of the Company;

4.10 The Company's Positive Duty Obligation

- 4.10.1 The Company is committed to fulfilling its legal obligations under the SD Act, including its positive duty to take reasonable and proportionate measures to eliminate, as far as possible, sex discrimination in the work context, sexual and sex-based harassment in connection with work, and conduct that amounts to subjecting a person to a hostile workplace on the ground of sex and acts of victimisation (Unlawful Conduct).
- 4.10.2 The Company is committed to adhering to the below seven standards as endorsed by the Australian Human Rights Commission to eliminate Unlawful Conduct in the work context or in connection with work. As such, we commit to:
- i. Leadership: ensuring our senior leaders, managers and supervisors understand their obligations under the SD Act and have up to date knowledge about relevant unlawful conduct. We are visible in our commitment to safe, respectful and inclusive workplaces that value gender diversity and gender equality. We will ensure appropriate measures for preventing and responding to Unlawful Conduct are in place and are communicated to our Workers accordingly. We will regularly review the effectiveness of these measures and consult and update our Workers when required.
 - ii. Culture: we foster a culture that is safe, respectful, inclusive and values diversity and gender equality. We have a "reporting culture" that empowers Workers to report Unlawful Conduct and holds people accountable for breaches of this policy.
 - iii. Knowledge: we educate our Workers through our policies and procedures and training on what we expect in relation to our stance on Unlawful Conduct, how to identify Unlawful Conduct and Worker's rights and responsibilities in relation to preventing and responding to Unlawful Conduct.
 - iv. Risk Management: we acknowledge that Unlawful Conduct is equally a work health and safety risk. We therefore take a risk-based approach to prevention and response.
 - v. Support: you are not alone. Support mechanisms are outlined in this policy.
 - vi. Reporting & Response: the Company takes complaints very seriously. Information on making a complaint and how this will be dealt with is outlined in the policy.
 - vii. Monitoring, Evaluation & Transparency: we will regularly monitor data available to us to understand the nature and extent of any Unlawful Conduct in our workplace, This assists us to develop measures for preventing and reporting Unlawful Conduct so it can be eliminated wherever practicable. Kirsty Kelly is responsible for the review of this policy which will be regularly reviewed. If a Worker has feedback about this policy, please direct this feedback to Kirsty Kelly.

- 4.10.3 Conduct that is inappropriate and unwelcome, of a sex-based or sexual nature, can have a serious and long-term impact on the health, safety and wellbeing of victims, is a violation of an individual's basic human rights, and can create a hostile, hazardous and or unproductive work environment. It is everyone's responsibility to behave in a manner that is conducive to a safe and productive work environment that is free from discrimination and harassment.

5 Victimization

- 5.1 Victimization occurs when a person is treated detrimentally by others because they have lodged a discrimination or harassment complaint or takes certain related actions.
- 5.2 Victimization of others is unlawful. The intention of such protective measures is to ensure that a person who wants to use or does use their statutory rights to protect themselves against discrimination or harassment, is not further disadvantaged by other detriments being imposed on them.
- 5.3 All Workers have an obligation not to engage in victimisation. If a Worker witnesses another Worker engage in discrimination, the Worker has an obligation to report such conduct to the Company as soon as possible following the Company's ordinary grievance procedure.
- 5.4 Disciplinary action will be taken against an employee who is found to have engaged in threatening, intimidating or other inappropriate behaviour against a person who has complained of harassment.

6 Bullying

- 6.1 Workplace bullying is repeated, unreasonable behaviour directed towards a person, or a group of persons, that causes a risk to health and safety. For the purposes of this policy, the following are defined:
- i. Repeated behaviour refers to the persistent nature of the behaviour and can refer to a range of behaviours over time.
 - ii. Unreasonable behaviour means behaviour that a reasonable person, having regard to the circumstances, may see as unreasonable, for example because the behaviour is victimising, humiliating, undermining or threatening.
 - iii. Risk to health and safety means that the bullying behaviour must be repeated, unreasonable and cause a risk to health and safety. 'Health' includes both physical and psychological health.
- 6.2 Bullying may be direct or indirect and may include, but is not limited to:

Direct bullying:

- i. Abusive, insulting or offensive language;
- ii. Spreading misinformation or malicious rumours;
- iii. Behaviour or language that frightens, humiliates, belittles or degrades, including over criticising, or criticism that is delivered with yelling or screaming;
- iv. Displaying offensive material;
- v. Inappropriate comments about a person's appearance, lifestyle, their family or sexual preferences;

- vi. Teasing or regularly making someone the brunt of pranks or practical jokes;
- vii. Interfering with a person's personal property or work equipment;
- viii. Harmful or offensive initiation practices.

Indirect bullying:

- i. Unreasonably overloading a person with work or not providing enough work;
- ii. Setting timelines that are difficult to achieve or constantly changing deadlines;
- iii. Setting tasks that are unreasonably below or beyond a person's skill level;
- iv. Deliberately excluding, isolating or marginalising a person from normal work activities;
- v. Withholding information that is vital for effective work performance;
- vi. Deliberately denying access to information, consultation or resources;
- vii. Deliberately changing work arrangements, such as rosters and leave, to inconvenience a particular person;
- viii. Unfair treatment in relation to accessing workplace entitlements such as leave or training.

6.3 What is not bullying?

- 6.3.1 Many things that happen at work are generally not considered to be bullying, although some experiences can be uncomfortable for those involved. Differences of opinion, performance management, conflicts and personality clashes can happen in any workplace, but do not necessarily result in bullying.
- 6.3.2 Reasonable management of Workers carried out in a reasonable manner is not bullying. Managers have the right, and should, manage their Workers. This includes directing the way in which work is performed, undertaking performance reviews and providing feedback (even if negative) and disciplining and counselling staff. Examples of reasonable management action include:
 - i. Setting reasonable performance goals, standards and deadlines in consultation with Workers and after considering their respective skills and experience;
 - ii. Allocating work to a Worker in a transparent way;
 - iii. Fairly rostering and allocating working hours;
 - iv. Transferring a Worker for legitimate and explained operational reasons;
 - v. Deciding not to select a Worker for promotion, following a fair and documented process;
 - vi. Informing a Worker about unsatisfactory work performance in a constructive way and in accordance with any workplace policies or agreements;
 - vii. Informing a Worker about inappropriate behaviour in an objective and confidential way;
 - viii. Implementing organisational changes or restructuring, and
 - viii. Performance management processes.

7 Responsibilities

7.1 All Workers have a responsibility to:

- i. Comply with this policy;
- ii. Ensure they have read and understood this policy;
- iii. Monitor the working environment to ensure that acceptable standards of conduct are observed at all times;
- iv. Model appropriate behaviour;
- v. treat others in a professional and respectful manner, without bias and in accordance with the Company's policies and procedures;
- vi. Ensure that all employment, advancement and training decisions are consistent with this policy;
- vii. Seek appropriate advice and assistance when dealing with formal or informal complaints;
- viii. Report conduct that they witness that breaches this policy to the Company. This includes reporting inappropriate conduct by a colleague, contractor, supplier or customer of the Company; and
- ix. When appropriate, deal with sensitive information in a confidential manner.

7.2 Workers Customer-Related Obligations

7.2.1 A Worker's obligations relating to discrimination, sex-based harassment and sexual harassment in the workplace also extend to a Worker's interaction with customer's of the Company.

7.2.2 Workers are expected to maintain professional boundaries and conduct themselves in a manner consistent with this policy. This includes maintaining respectful communication, and refraining from engaging in any behaviour that could be construed as discrimination under this policy, sex-based harassment or sexual harassment in line with this policy. These expectations extend to in-person meetings, virtual communications and any social or business events where customers are present.

7.2.3 Workers should establish clear professional boundaries with clients/customers.

8 What if you do have a complaint

8.1 Workers who become aware of a breach or suspected breach of this policy are encouraged to discuss the matter with Kirsty Kelly on a confidential basis. In instances of any alleged policy breach, discretion is important to protect all people concerned. All Workers are required to observe confidentiality of complaints of which they become aware. Should you be found to be inappropriately discussing a complaint, you may be disciplined for that conduct.

8.2 Management, or others involved in managing a complaint or investigation will endeavour to maintain confidentiality as far as possible. However, it may be necessary to speak with other workplace participants in order to determine what happened in order to resolve the complaint or disclose a complaint in the event of an emergency or life threatening situation

8.3 A Worker who believes they are the victim of discrimination, bullying or harassment may deal with the matter:

- i. **Informally** - by confronting the person with whom they are aggrieved; and/or

ii. **Formally** - by using the Company's grievance procedure.

- 8.4 Should the Worker elect to raise a formal grievance, the Company may carry out an investigation. Alternatively, the Company may take whatever action it deems necessary to attempt to resolve the Worker's grievance.
- 8.5 The Company expects that grievances are raised in good faith. If after an investigation by the Company, a Worker's complaint or statement is found to be false and malicious, disciplinary action may be taken against the Worker up to and including termination of employment or engagement.
- 8.6 If a Worker's complaint is substantiated, the Company may take disciplinary action against the perpetrator. Depending upon the seriousness of the breach of this policy, such action may include termination of employment or engagement.
- 8.7 All Workers are encouraged to talk to their supervisor/immediate manager or Human Resources if they have any questions or are unsure about any aspect of this policy.

9 Support Mechanism

- 9.1 Managers and senior staff are also available for you to talk to if you wish to raise a complaint or simply discuss concerns you may have in the workplace.
- 9.2 If you do not feel comfortable speaking to your manager, you can also access external assistance, including but not limited to:
- i. If at any time you feel unsafe, you can phone the police on 000.
 - ii. If you feel upset or distressed, you can phone:
 - 1800RESPECT (1800 737 732) for 24-hour support for people impacted by sexual harassment, sexual assault, domestic or family violence and abuse
 - Lifeline (13 11 14) for crisis support
 - iii. The Australian Human Rights Commission's free and confidential National Information Service can provide information and referrals in relation to workplace sexual harassment. Their number is 1300 656 429.

10 Risk Assessment

- 10.1 The Company will conduct a risk assessment on each occasion where:
- i. A Worker agent, client or any other person makes a report or raises a grievance that alleges a Worker, agent or client has, or has threatened to, engage in prohibited conduct under this policy;
 - ii. The Company has a reasonable suspicion that unlawful conduct has occurred in a work context or in Connection to Work;
 - iii. A manager has personally observed conduct that is prohibited under this policy, including for example, behaviour that may create a hostile environment on the basis of sex; or
 - iv. If, for any reason, the Company has concerns about the health, safety and/or wellbeing of an individual or group of Workers, agents or clients.

10.2 A risk assessment may include:

- i. A review of indications that may cause concern, such as absenteeism, turnover, sudden drop in performance or poor engagement;
- ii. A review of exit interview feedback to identify concerning behaviour or conduct;
- iii. Consideration of individuals who may be at greater risk of sex discrimination, sex- based and sexual harassment; and
- iv. Consideration of the physical environment.