

Equal Employment Opportunity and Workplace Behaviours Policy

1. Purpose

This policy has been designed to ensure that auDA and its employees maintain appropriate standards of behaviour in the workplace, that all employees are treated fairly and equitably, that people are judged based on their performance, skills and abilities, and that auDA complies with all relevant applicable State, Territory and Commonwealth laws.

2. Scope

All employees must comply with this policy. A reference to '**employee**' for the purpose of this policy includes all auDA directors, employees, consultants and contractors.

This policy applies to all business activities with suppliers, contractors and stakeholders.

This policy applies to conduct that takes place within the workplace and outside the workplace where there is a relevant connection with the workplace, including but not limited to work-related functions and external training courses or conferences.

Responsibility lies with every person covered by this policy to conduct themselves in accordance with it.

3. Guiding principles

auDA is an equal opportunity employer and wants all employees to enjoy a workplace which is fair and free from discrimination, harassment, vilification, bullying and victimisation. auDA does not tolerate any unlawful discrimination, harassment, vilification, bullying and victimization.

As an equal opportunity employer, auDA aims to:

- recruit and appoint the best qualified person for the available job where suitability will be assessed according to relevant criteria such as merit, including skills, education, qualifications, experience, abilities, prior work performance and aptitudes
- appraise, reward, and promote employees on the objective assessment of performance, achievement of agreed objectives, skills development, business performance and the individual's potential
- provide opportunities to employees for personal and professional development which are consistent with the organisation's objectives and individual's professional goals
- remove barriers which impede the potential of employees to achieve their professional goals within the organisation's objectives.



4. Key Terms

Workplace bullying

Workplace bullying is repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety.

Reasonable management action taken in a reasonable manner does not constitute bullying.

Examples of workplace bullying include, but are not limited to:

- Abusive, insulting or offensive language or comments
- Unjustified criticism or complaints
- Repeated threats of dismissal
- Exclusion from activities where deliberate
- Spreading rumours
- Setting unreasonable work tasks or timelines
- Sabotaging a person's work performance by withholding information or giving incorrect information
- Changing of rosters/work arrangements so as to deliberately inconvenience an employee or employees.

What is not considered workplace bullying:

- Setting reasonable work tasks and timelines
- Reasonable rostering/work arrangements
- Deciding not to select an employee for promotion where a reasonable process is followed
- Informing an employee about unsatisfactory work performance in an honest, fair and constructive way
- Informing an employee about inappropriate behaviour in an objective and confidential way
- Implementing organisational changes or restructuring
- Taking disciplinary action, including suspension or terminating employment.

Discrimination

Unlawful discrimination can either be direct or indirect. Under legislation, discrimination is defined as treating someone or a group of people less favourably than another person or group because of a particular protected attribute.

Workplace discrimination can occur in the following example scenarios (amongst others):

- recruiting and selecting employees – advertisements, questions asked of applicants (i.e. are you planning to have children within the next 2 years?);
- terms, conditions and benefits offered as part of employment and how they are applied;



- who receives training and what sort of training is offered; and
- who is considered and selected for transfer, promotion, retrenchment or dismissal.

Direct discrimination

Direct discrimination means treating a person, or group of people, unfavourably because the person or group has, is perceived to have, or is associated with someone who has, a particular attribute or characteristic.

Indirect discrimination

Indirect discrimination may occur when an employer imposes a policy, requirement or condition which applies to everyone equally but in fact operates to disadvantage a particular group because of a characteristic of that group, such as their sex, age, race etc. (ie a protected attribute).

Protected attributes

The protected attributes may include (depending on applicable state, territory and federal legislation):

- Gender
- Race, colour, descent or national or ethnic origin
- Impairment/disability
- Age
- Pregnancy or potential pregnancy
- Breast feeding
- Marital or relationship status
- Status as a parent or carer
- Lawful sexual activity
- Sexual orientation
- Gender identity
- Physical features
- Industrial activity or trade union membership
- Political or religious beliefs or activities
- Intersex status
- Personal association with a person who is identified by reference to any of the above listed attributes

Harassment

Harassment is unwelcome, unwanted and unsolicited behaviour which makes a person feel offended, humiliated and/or intimidated and a reasonable person would anticipate that reaction in the circumstances. It does not matter whether the behaviour was intended to offend, humiliate or intimidate.

Harassment need not be repeated or continuous; a single incident can amount to harassment.

Reasonable management action carried out in a reasonable manner does not constitute harassment.



Sexual Harassment

Sexual harassment is unwelcome sexual advances, unwelcome requests for sexual favours or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated and/or intimidated, where a reasonable person would anticipate that reaction in the circumstances. The intent of the person who has engaged in sexual harassment is irrelevant.

Sexual harassment may include:

- comments about a person's sex life or physical appearance
- comments of a sexual nature
- leering and staring
- unwanted touching such as brushing up against a person, fondling or hugging
- 'flashing'
- sexual gestures or imitating a sexual act
- sexual propositions or repeated unwanted requests for dates
- making promises or threats in return for sexual favours
- sexual jokes or innuendos
- offensive telephone calls, text messages or communications on social media platforms
- displays of offensive photographs, reading matter, displaying, sending or requesting sexually explicit pictures or objects, including creating photo-shopped images
- sending jokes or graphics of a sexual nature by email, internet, fax or mobile phone
- unwelcome questioning about a person's private life
- offensive screen savers
- stalking, sexual assault, indecent assault or rape (which are also criminal offences).

It is important to note that if a person does not object to inappropriate behaviour at the time, it should not be assumed that they are giving their consent. Consent exists where clear and unambiguous consent has been freely given and continues to be given.

Vilification

Vilification is an activity in public which incites hatred, serious contempt for, or severe ridicule of a person because of the person's race. Any racist incitement involving threat of physical harm to persons, or their property or premises is considered serious vilification.

Activity in public includes:

- any form of communication to the public, including speaking, writing, printing, displaying notices, broadcasting, screening and playing of tapes or other recorded material



- any conduct observable by the public, including actions and gestures and the wearing or display of clothing, signs, flags, emblems and insignia
- the distribution or dissemination of any matter to the public.

Victimisation

Victimisation happens where an employee is treated harshly or subjected to any detriment because they have made a complaint of bullying or harassment.

Victimisation will also happen if a person is subjected to a detriment because they have provided information or evidence in connection with a bullying or discrimination complaint.

A person must not victimise or otherwise subject another person to detrimental action as a consequence of that person:

- Making a complaint of inappropriate or unlawful workplace behaviours;
- Providing information about a disclosure or complaint of inappropriate or unlawful workplace behaviours;
- Supporting a person who has made a disclosure of inappropriate or unlawful workplace behaviours; or
- Engaging in safe active bystander action.

5. Harassment of auDA Stakeholders

The way employees treat auDA stakeholders is extremely important for auDA's reputation. Harassment of stakeholders is not only bad for business; it is against the law and can result in legal action being taken by a stakeholder against auDA.

6. Workplace violence

Workplace violence is any action, incident or behaviour in which a person is physically assaulted, threatened, harmed or injured in circumstances relating to their work. It is the responsibility of all employees that the risk of workplace violence must be eliminated or minimised so far as is reasonably practicable. Incidents of workplace violence should be reported to the police because these are criminal matters.

7. Responsibilities

Management:

- Managers and supervisors must ensure that they do not engage in any unlawful discrimination, harassment, bullying, victimisation or vilification of employees (or potential employees), other managers, supervisors, suppliers or other stakeholders.
- Carry out risk assessments and implement control measures to prevent unlawful and inappropriate workplace behaviours within auDA.
- Ensure all employees have been provided with information regarding their rights and responsibilities in relation to unlawful and inappropriate workplace behaviours.



- Managers and supervisors must ensure they have the appropriate training in handling workplace complaints, including an understanding of both informal and formal complaint resolution options.

All employees:

- Must ensure that they do not engage in any unlawful discrimination, harassment, bullying, victimisation or vilification of other employees, managers, supervisors, suppliers or other stakeholders.
- Should be aware that they can be held legally responsible for their unlawful acts. Employees, who aid, abet or encourage other persons to engage in unlawful workplace behaviours can also be held legally liable.
- Should raise any issues or concerns relating to unlawful or inappropriate workplace behaviours with their manager or HR Support. The Workplace Grievance Resolution Procedures includes additional guidance on raising concerns.
- Must ensure they have an understanding of the options available to resolve any unlawful discrimination, harassment, bullying, vilification or victimisation issues as set out in the Workplace Grievance Resolution Procedure.

8. Complaints Procedure

Employees can report or make a complaint about any instance of unlawful and inappropriate workplace behaviours to their manager or seek advice from the People & Culture Support Officer. auDA takes any allegations of unlawful discrimination, harassment, bullying, vilification or victimisation seriously. Complaints of unlawful and inappropriate workplace behaviours are dealt with in line with the auDA Workplace Grievance Resolution Procedure.

Employees may also have rights to lodge a complaint with the relevant State or Territory anti-discrimination tribunal or the Australian Human Rights Commission, or in the Fair Work Commission under the *Fair Work Act 2009* (Cth).

9. Breach of Policy

Individuals found to have breached this policy will be subject to appropriate disciplinary action, which may include dismissal. Individuals may also be personally liable in relation to any legal claims resulting from their conduct. auDA may also be held vicariously liable for their conduct.

Employees found to have knowingly provided false information, or knowingly made allegations of inappropriate or unlawful workplace behaviours without any substantive merit or other than in good faith, may be subject to disciplinary action.

Behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications, may be referred to the police.



10. Education and Training

auDA will ensure that all employees are provided with the appropriate training and education on issues of unlawful and inappropriate workplace behaviours which will enable them to:

- Understand the behaviours that are or are not appropriate workplace behaviours.
- Understand the consequences of unlawful and inappropriate workplace behaviours.
- Understand the process for lodging complaints of unlawful and inappropriate workplace behaviours.

11. Support and assistance

Support is available to all employees involved in reporting and managing a complaint even after the matter is resolved. For example, Employees can access the Employee Assistance Program.

12. Responsibilities

The **Board** is responsible, through the **Governance & Culture Committee**, for reviewing this policy and approving any changes to it.

The **Governance & Culture Committee** is responsible for reviewing this policy and making recommendations to the Board.

The **Chief Executive Officer** is responsible for ensuring that this policy is kept up to date and promoting and supporting compliance with this policy.

All **employees** are responsible for being aware of and complying with this policy and the Code of Conduct.

13. Relevant legislation

This policy is intended to operate in conjunction with any relevant Commonwealth, State and Territory legislation applying to auDA and its employees. Where there is an inconsistency between any legislation and this policy, the relevant legislation will prevail.

Harassment, discrimination and bullying are prohibited under Commonwealth and State legislation including but not limited to:

- Racial Discrimination Act 1975 (Cth)
- Sex Discrimination Act 1984 (Cth)
- Disability Discrimination Act 1992 (Cth)
- Age Discrimination Act 2004 (Cth)
- Discrimination Act 1991 (Cth)
- Workplace Gender Equality Act 2012 (Cth)
- Fair Work Act 2009 (Cth)
- Australian Human Rights and Equal Opportunity Commission Act 1986 (Cth)
- Equal Opportunity Act 2010 (Vic)



- Racial and Religious Tolerance Act 2001 (Vic)
- Occupational Health and Safety Act 2004 (Vic)
- Victorian Charter of Human Rights and Responsibilities 2006 (Vic).

14. Related Documents

- Code of Conduct
- Workplace Grievance Resolution Procedure.
- Whistleblower Policy

15. Document Control

Owner: Chief Executive Officer

Committee / Board Review Function: Governance & Culture Committee – Tier 1

Next Review Date: March 2025

Version	Change	Approval	Date
1	Original	Board	23 May 2018
2	Review and rebranding	Board	30 March 2021
3	Review	Board	12 April 2023