



# DISCRIMINATION & HARASSMENT

## Terms and Conditions

Effective from 31 July 2020, these guidelines replace the document formerly known as the 'Discrimination and Harassment Policy'. All colleagues must continue to comply with the responsibilities contained in these guidelines as varied or replaced from time to time. However, these guidelines do not create any contractual rights or entitlements.

NAB is committed to providing you with a safe and respectful workplace, free from all forms of discrimination, harassment (including sexual harassment) and victimisation. NAB is also committed to ensuring that our customers are treated with respect, and that NAB and its colleagues provide services and interact with customers in a way that is free from all forms of discrimination, harassment and victimisation.

These guidelines define and provide examples of discrimination, harassment and victimisation. They also make clear your rights and our shared responsibilities to prevent discrimination, harassment and victimisation in the workplace.

## **Scope**

These guidelines apply to:

- all colleagues (for the purposes of these guidelines, the term ‘colleague’ includes casual, temporary, fixed term or permanent employees, job candidates, student placements, contractors, sub-contractors and NAB officers and Board members);
- how NAB and its colleagues provide products and services to customers, and how colleagues interact with members of the public in their role; and
- onsite, offsite or after-hours work, work-related functions, work social functions, customer functions and conferences – wherever and whenever colleagues are in a work-related environment.

## **Our position**

Together, all colleagues (regardless of position) are responsible for, and must actively ensure, they treat others, lawfully and with dignity, courtesy and respect. This includes NAB customers.

Complaints or concerns about alleged discrimination, harassment or victimisation will be taken seriously and all parties will be treated with respect. Additionally, complaints will be handled impartially, confidentially and will be acted upon in a timely manner.

NAB recognises it may be difficult for a colleague to raise a concern or complaint about discrimination, harassment or victimisation they have experienced or observed. Keep in mind these behaviours may be unlawful, and NAB is committed to providing an environment that is safe and a process that colleagues can have confidence in when raising a concern or complaint.

Regardless of position, NAB will hold all colleagues to account by taking appropriate action if it is found they have engaged in discrimination, harassment or victimisation. Such action may include, without limitation, counselling, a warning, a conduct gate, termination of employment, or termination of any contracting or other arrangement that NAB has with the colleague.

NAB is committed to educating colleagues about behaviours that may constitute discrimination, harassment or victimisation, and to providing procedures that enable colleagues to raise a concern or complaint.

Discrimination and harassment based on certain prohibited grounds is unlawful under Commonwealth, State and Territory legislation, and can have serious consequences for NAB and individual colleagues (including personal liability).

## **Rights and responsibilities**

NAB's responsibilities:

- providing a workplace free from discrimination, harassment and victimisation;
- seeking to prevent discrimination, harassment and victimisation through education and training;
- promoting appropriate standards of conduct at all times;
- maintaining guidelines and communicating expectations regarding workplace discrimination, harassment and victimisation;
- maintaining and communicating a procedure under which concerns or complaints of discrimination, harassment or victimisation are handled;
- having designated trained Contact Officers to assist colleagues who have complaints or concerns; and
- taking appropriate action where a colleague engages in discrimination, harassment or victimisation.

## **Your rights**

You are entitled to:

- work free from discrimination and harassment (including sexual harassment);
- feel safe when raising issues; and
- make a genuine enquiry or complaint in a reasonable and respectful manner without being victimised.

## **Your responsibilities**

You have a responsibility to actively ensure that you contribute to a workplace free from harassment, discrimination and victimisation, and call out behaviour that is in breach of these guidelines.

You must:

- treat colleagues and customers with dignity, courtesy and respect;
- model standards of behaviour consistent with these guidelines;
- complete training relevant to discrimination, harassment and victimisation as directed;
- call out behaviour that does not meet the standards of these guidelines;
- inform your people leader or Employee Relations via Colleague Connect if you become aware of conduct which is inconsistent with these guidelines;
- not victimise another person who has (or may have) made a complaint or assisted with a complaint; and
- ensure confidentiality is maintained in accordance with these guidelines and any instructions provided during an investigation of a discrimination, harassment or victimisation complaint, as well as avoiding gossip regarding the investigation or complaint.

If you are a people leader, you must also:

- role model expected behaviours and encourage behaviours consistent with these guidelines;
- when observing inappropriate behaviour and where it is safe to do so - take action at the time and call out the behaviour regardless of whether a complaint is raised;

- when becoming aware of behaviour that may be considered inconsistent with these guidelines - escalate the matter as soon as possible to Employee Relations via Colleague Connect;
- consider the overall health and wellbeing of your team members and, if you are concerned about a colleague's welfare, contact Employee Relations immediately via Colleague Connect;
- ensure colleagues who raise an issue or make a complaint are not victimised; and
- implement any recommendations made by Employee Relations about managing allegations of discrimination, harassment or victimisation, and assist in managing outcomes arising from an investigation.

## UNACCEPTABLE WORKPLACE CONDUCT

Discrimination and harassment (including sexual harassment) are unacceptable at NAB and are unlawful under Commonwealth, State and Territory legislation.

### Discrimination

Unlawful discrimination can be either direct or indirect.

In respect of both direct and indirect discrimination, the discriminator's motive or intent is irrelevant.

### Meaning of direct discrimination

Direct discrimination occurs when a person or group of people treats, or proposes to treat, another person or group less favourably on the basis of a particular ground or attribute protected by law (see examples of the grounds or attributes list below).

Examples of direct discrimination:

- A gay man is deliberately not interviewed for a position because the people leader is uncomfortable with homosexuality.
- Someone is refused a promotion because they are considered 'too old' to understand new technology.
- A customer is refused access to a NAB product due to their gender.
- Deva is an active and visible member of NAB Pride. Recently, the team were looking for volunteers to be Male Champions of Change to help advocate for gender equality. Deva's People Leader commented in a meeting 'I guess this rules Deva out as we're just looking for real men to join'. Deva called out the behaviour as inappropriate but was told to 'settle down' as this was just 'harmless banter'.

### Meaning of indirect discrimination

Indirect discrimination occurs when a person imposes, or proposes to impose, an unreasonable requirement, condition or practice that has, or is likely to have, the effect of disadvantaging a person or persons with one of the grounds or attributes (see list below).

Below is an example of indirect discrimination.

Setting a weekly team meeting to commence at 7am because it is convenient rather than a genuine business need. This is imposing an unreasonable requirement that is likely to disadvantage a person with parental responsibilities and may not be reasonable.

## The grounds or attributes for discrimination

Examples of the grounds or attributes protected from discrimination under legislation (which varies between jurisdictions) include:

- disability (including behaviour that is a manifestation of a disability), disease or injury, including a work-related injury
- parental status or status as a carer, for example, because a person is responsible for caring for children or other family members
- race, colour, descent, national or ethnic origin
- age
- sex
- industrial activity (including being a member of an industrial organisation like a trade union, taking part in industrial activity, or deciding not to join a union)
- employment activity
- physical features
- religion, including religious belief or activity
- pregnancy, potential pregnancy and breastfeeding
- sexual orientation, intersex status or gender identity (gender expression), including gay, lesbian, bisexual, transsexual, transgender, queer and heterosexual
- lawful sexual activity
- marital or relationship status, whether single, married, divorced, widowed, unmarried or in a de facto relationship or same sex relationship
- political belief or activity
- social origin
- medical record
- an association with someone who has, or is assumed to have, one of the above characteristics.

It is also unlawful to treat someone unfavourably because you assume they have a personal characteristic, they may have had that characteristic in the past or may have it sometime in the future.

## Harassment

### The meaning of unlawful harassment

Unlawful harassment is any form of behaviour where a person is made to feel intimidated, insulted or humiliated because of one of the grounds or attributes listed above, e.g., race, sex, disability etc. It can be a single unwelcome incident or a persistent pattern of intimidating, insulting or humiliating behaviour

An example of unlawful harassment is:

A colleague comments openly to team members about their dislike of another team member who is bisexual. The colleague then proceeds to humiliate the team member by stating, '...the parents must be wondering what they did wrong'.

## **Sexual harassment**

### **The meaning of sexual harassment**

NAB has a zero tolerance approach to sexual harassment.

Sexual harassment is a specific form of harassment. It is where a person engages in unwelcome conduct of a sexual nature and, having regard to all the circumstances, a reasonable person would anticipate that the person harassed would be offended, humiliated or intimidated. Sexual harassment can be physical, spoken or written. It is irrelevant if the harasser did not intend to offend, humiliate or intimidate, or even know that this was the effect of their conduct, for it to be against the law.

Behaviour that may constitute sexual harassment includes:

- sexually suggestive comments about a person's private life or the way they look
- sexually suggestive behaviour, such as leering or staring
- brushing up against someone, touching, fondling or hugging
- sexually suggestive comments or jokes
- displaying offensive sexual screen savers, photos, calendars or objects
- repeated unwanted requests to catch up socially, for example, going on a date
- requests for sex or other unwelcome physical contact
- sexually explicit posts on social networking sites
- insults or taunts of a sexual nature
- intrusive questions or statements about a person's private life
- sending sexually explicit emails, instant messages (e.g., via Microsoft Teams) or text messages
- inappropriate advances on social networking sites
- accessing sexually explicit internet sites
- behaviour that may also be considered to be an offence, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

If behaviour involves threats to harm someone, acts of violence (e.g. physical assault or the threat of physical assault) or stalking, it should be reported immediately to the Security Operations Centre or the police.

### **Where and when behaviour is discrimination or harassment**

#### **The meaning of the workplace**

The meaning of 'workplace' in the context of these guidelines includes a work-related environment, for example, conducting business on behalf of NAB (whether onsite or offsite), attending work-related events, training activities, offsite conferences, work social functions, customer functions and volunteer days.

#### **A single incident is enough**

A single incident is enough to constitute discrimination, harassment or sexual harassment – it doesn't have to be repeated.

Just because someone does not object to inappropriate behaviour in the workplace at the time, it does not mean they are consenting to the behaviour.

All alleged incidents of discrimination or harassment (including sexual harassment) – no matter how large or small, or who is involved – require colleagues and people leaders to respond promptly and appropriately.

### **Discrimination and harassment using technology**

Discrimination, harassment (including sexual harassment) or victimisation using any form of technology (whether owned by you, NAB or anyone else) is strictly prohibited under these guidelines, in addition to NAB's Code of Conduct and Information Risk Policy - Use of Information and Information Systems Standard Operating Procedure. This includes, without limitation, the use of email, instant messaging such as Microsoft Teams, texts, any form of social media, the internet, phones, tablets, computers or any other electronic means.

## **Victimisation**

### **The meaning of victimisation**

Victimisation is subjecting, or threatening to subject, someone to any detriment because they have made a complaint, helped someone else make a complaint, are involved in an investigation or complaint (for example, as a witness), or refused to undertake an action because the action itself would be discrimination, harassment, sexual harassment or victimisation.

It is also victimisation to subject or threaten to subject someone to detriment because you believe they are likely to undertake any of the above actions.

### **Victimisation is unlawful.**

Where a colleague is found to have victimised another colleague or customer, their conduct will be deemed to be inconsistent with these guidelines and appropriate action will be taken. Such action may include, without limitation, counselling, a warning, a conduct gate, termination of employment, or termination of any contracting or other arrangement that NAB has with the colleague.

## **Concerns and complaints**

### **Raising your concern or complaint**

You should seek advice from Employee Relations via Colleague Connect if you have a concern or complaint about workplace discrimination, harassment or victimisation.

The approach you take to raise a concern or complaint will vary, depending on your situation.

For details about who to raise your concern or complaint with, and the process that will be followed, please refer to the Colleague Complaints Procedure.

### **People Leaders dealing with a concern, complaint or inappropriate behaviour**

When you become aware of a concern or complaint of discrimination, harassment or victimisation, or if you see a colleague behave in a way which may breach these guidelines, you must immediately contact Employee Relations via Colleague Connect.

## **Gossip and breach of confidentiality**

It is unacceptable for you to gossip with colleagues or customers about a concern or complaint of discrimination, harassment or victimisation.

Additionally, breaching the confidentiality of a complaint and/or investigation, or inappropriately disclosing personal information obtained in a professional role (for example, as a people leader), is conduct that is inconsistent with these guidelines and may lead to appropriate action being taken. Such action may include, without limitation, counselling, a warning, a conduct note, termination of employment, or termination of any contracting or other arrangement that NAB has with the colleague.

## **Employee health and wellbeing**

If a people leader becomes concerned about a team member's health and wellbeing, they should contact Employee Relations immediately via Colleague Connect.

Where a people leader believes a team member is considering imminent self-harm, they should contact the Security Operations Centre (**SOC**).

## **MyCoach**

MyCoach offers short term intervention that supports and assists you with strategies to manage difficult situations. MyCoach sessions are confidential. A MyCoach counsellor is not involved in making decisions about whether discrimination, harassment or victimisation has occurred and is not involved in the Colleague Complaints Procedure.

You can contact MyCoach to arrange confidential counselling.

For more information visit **nab.com.au**