



# Opera House Policy

<b>Title:</b>	Bullying and Harassment Policy		
<b>Policy Number:</b>	SOH131		
<b>Effective Date:</b>	6 March 2012	<b>Next Review:</b>	March 2014
<b>Authorisation:</b>	Chief Executive		
<b>Authorisation Date:</b>	6 March 2012		
<b>Superseded Policy:</b>	HR06		
<b>Accountable Director:</b>	Director, People & Culture		
<b>Responsible Officer:</b>	Human Resources Manager		

## 1 PURPOSE

- 1.1 Sydney Opera House is committed to creating and maintaining a work environment where each individual is treated with respect and dignity and can work free of any fear of bullying or harassment. This policy provides:
  - an outline of Sydney Opera House's commitment to, and information on, the prevention of workplace bullying and harassment; and
  - information and procedures for the management of workplace bullying and harassment.
- 1.2 This policy also acts as a guide for staff to identify behaviour that may constitute bullying and harassment. Where staff witness behaviour they believe to constitute bullying or harassment, they should confidentially report the matter (whether or not the staff member is involved in the matter or not).
- 1.3 All staff have an obligation to comply with this policy. Compliance is essential to the maintenance of a safe workplace and serves to protect the reputation and integrity of the Sydney Opera House.

## 2 SCOPE

- 2.1 All Sydney Opera House employees and contractors, as well as visitors, candidates for employment, and others having business at Sydney Opera House shall not be subjected to any form of bullying or harassment.
- 2.2 This policy applies to conduct in and out of the office whenever an employee is engaged in Sydney Opera House business, such as when the employee is at a work-related social event, on business trips, or visiting clients. Sydney Opera House also expects all contractors and visitors to display the standard of conduct expected under this policy.
- 2.3 This policy aligns with the principles and provisions of the Sydney Opera House *Enterprise Agreement*, Sydney Opera House *Code of Conduct* and NSW Government guidelines for preventing and managing bullying in the workplace.

## 3 POLICY

- 3.1 There are laws against bullying and harassment in the workplace. These laws apply to both Sydney Opera House and to its staff, contractors and other visitors. For example, in instances of serious bullying or harassment, this can constitute 'assault' under criminal law, or can constitute a breach of the *Work Health and Safety Act 2011*.

Sydney Opera House and the relevant statutory bodies charged with ensuring compliance with the various laws take allegations of bullying and harassment seriously and will not tolerate any instances of behaviour that breach these laws or the standards outlined in the Sydney Opera House *Code of Conduct*.

- 3.2 Any instances of bullying and harassment will be treated very seriously. All genuine complaints of bullying and/or harassment are to be reported in accordance with the procedures outlined in **Appendix 1** of this policy and allegations will be promptly investigated in accordance with the principles of procedural fairness.

- 3.3 Where an investigation is required, a suitable person may be appointed by the Director, People & Culture to investigate the complaint. Under these circumstances, the independent person will:
- be an employee of Sydney Opera House at an appropriate level, **or** an authorised person from an external authority; and
  - not be party to the complaint; and
  - be unbiased toward all parties involved.
- 3.4 Where a finding is made that a person has engaged in bullying and harassing behaviour, the result can range from a disciplinary warning to termination of employment. Where a contractor is found to have engaged in bullying and harassment, the contractor's ongoing engagement will be reviewed and may be terminated.
- 3.5 Sydney Opera House will not tolerate any staff being victimised by making a complaint. Victimisation of any person involved in a complaint is unacceptable and constitutes a breach of the *Code of Conduct*.
- Victimisation occurs when a person is threatened or subjected to detriment as a result of making a complaint about bullying and harassment or any other such treatment that is in breach of this policy. It is irrelevant that the complaint may be rejected or that the person elects not to continue with the complaint.
- 3.6 This policy does not form part of any contract between Sydney Opera House and any of its employees or contractors and may be repealed or varied by Sydney Opera House at its absolute discretion.

## 4 DEFINITIONS

### ***What is Bullying and Harassment?***

While related and sometimes overlapping in definition, 'bullying' behaviour is distinct from behaviour classified as 'harassment'. Neither conduct is acceptable and Sydney Opera House staff are required to follow the procedures set out in **Appendix 1** when such conduct is encountered. Each of these concepts are explained below.

#### Bullying

There is no universal definition of 'bullying', and it is not dealt with in terms by any NSW workplace legislation. Whether bullying is occurring in any particular instance can depend on the particular circumstances.

There are key indicators however that should alert people to possible bullying conduct. These may include:

- aggressive/intimidating behaviour;
- physical violence/force;
- threats of physical violence;
- threats of a professional nature (e.g. "I'll see to it that you are fired...");
- threats of a personal nature;
- dismissive/arrogant treatment of other employees;
- exclusionary behaviour (e.g. repeated, less favourable treatment of an employee);
- practical jokes - i.e. causing an employee to be the 'butt' of the joke;
- excessive and unnecessary criticism;
- isolating an employee in the workplace;
- rude or belittling comments;
- standing in someone's way or deliberately blocking their path in an intimidating manner;
- sabotaging a person's work or their ability to do their job by not providing them with necessary information, appropriate training and/or resources.
- abuse of management or supervisory power (e.g. inappropriate or unreasonable blocking of promotion, training, development or other work opportunities).

For conduct to constitute 'bullying', there does not need to be any intention to cause harm or discomfort. All Sydney Opera House staff should therefore consider how their conduct could be perceived by

others, even in circumstances where they think their behaviour is perfectly acceptable.

### Harassment

Like bullying, there is no universal definition of 'harassment', which may depend on the particular circumstances. Unlawful 'harassment' will often include behaviour that is prohibited under applicable anti-discrimination legislation.

Generally speaking, while harassment can encompass bullying behaviour, it captures a much broader spectrum of conduct.

Unlawful harassment occurs when someone is made to feel intimidated, insulted or humiliated because of his or her race, colour, ethnicity, sex, disability, sexual preference, pregnancy, marital status, age, carer's responsibility or some other characteristic specified under anti-discrimination laws.

### Relevant legislation

*Anti-Discrimination Act 1977 (NSW)*

*Fair Work Act 2009 (Cth)*

*Age Discrimination Act 2004 (Cth)*

*Disability Discrimination Act 1992 (Cth)*

*Racial Discrimination Act 1975 (Cth)*

*Sex Discrimination Act 1984 (Cth)*

*Crimes Act 1900 (NSW)*

*Work Health and Safety Act 2011.*

If any staff member has a query about the above legislation, you should discuss the matter with a Human Resources Consultant.

### ***What does not constitute bullying and harassment?***

Bullying and/or harassment **does not** include fair, just and reasonable management actions taken in a fair way in connection with a person's employment.

For example, performance management processes, implementation of organisational change, and actions that involve a transfer, demotion, discipline, redeployment or dismissal, do not necessarily constitute bullying and/or harassment.

If a person is unsure of what constitutes bullying and harassment, and if that person nevertheless has some concerns regarding another person's behaviour, you should speak to a Human Resources Consultant who will discuss the matter openly with you on an informal and confidential basis. This may enable you to then decide whether to make a formal complaint.

### ***Support person***

The role of a support person is to act as a passive support to a staff member at their request at meetings, discussions and interviews within the investigation process. It is not the role of the support person to formally represent the staff member or speak on their behalf. The support person assists the staff member by providing comfort from the fact they are physically present, observes proceedings and assists the staff member administratively (note-taking) if required. Support persons must not be anyone related to the matter or a legal representative. See Appendix 1 – Advice and support persons.

## **5 RESPONSIBILITIES**

*Everyone* is responsible for ensuring that the Sydney Opera House's workplace is free of bullying and harassment.

5.1 All staff have a responsibility for:

- actively contributing to a harmonious, supportive and productive working environment;
- maintaining courteous and respectful behaviour in all workplace interactions;
- discouraging any form of bullying and harassment in the workplace; and
- taking prompt action and following the procedures and guidelines outlined in this policy when a complaint of bullying and harassment arises.

Just because a staff member is not the victim of bullying and harassment, this does not mean that the staff member should ignore instances of bullying or harassment. Staff have a legal responsibility to comply with this policy and the relevant laws, and a moral and ethical responsibility to ensure colleagues are not subjected to bullying and/or harassment.

Anyone at Sydney Opera House who assists, induces, permits or allows another person to bully or harass someone else may also be liable as an accessory. This includes situations where a person may be aware of the unlawful behaviour but does nothing to prevent it.

Where there is a concern that a colleague may have been subjected to bullying and/or harassment, then you should follow the procedure set out in this policy.

5.2 Managers and Supervisors have additional responsibility for:

- ensuring all staff (including contracted staff) understand that bullying and harassment in the workplace will not be tolerated;
- promoting a work environment that discourages bullying and harassment by maintaining proper standards of conduct and demonstrating acceptable workplace behaviour;
- providing staff with information on procedures for resolving work related complaints and actively assisting the resolution of grievances at the local level where possible;
- providing timely and confidential advice and assistance to staff members;
- ensuring parties are not subject to victimisation or harassment.

5.3 The Director, People & Culture is responsible for the implementation, review and monitoring of this policy.

## 6 REFERENCES

Sydney Opera House *Code of Conduct*

Sydney Opera House *Enterprise Agreement*

*NSW Anti-Discrimination Act 1977*

*NSW Work Health and Safety Act 2011*

*NSW Work Health and Safety Regulation 2011*

*Commonwealth Human Rights Commission Act 1986*

The Law Society of NSW (2004), *Prevention of Workplace Bullying: A tool for change to the legal workplace.*

WorkCover NSW (2002), *Violence in the Workplace: A Health and Safety Guide.*

WorkCover NSW (2008), *Preventing and dealing with workplace bullying: a guide for employers and employees.*

WorkCover NSW (2009), *Preventing and responding to bullying at work.*

NSW Government, *Dignity and Respect – Policy and Guidelines on Preventing and Managing Bullying in the Workplace.*

## 7 APPENDICES

Appendix 1 – Reporting a complaint of bullying and harassment and investigation of complaints.

### APPROVED



Chief Executive

Date: 6 March 2012

## REPORTING A COMPLAINT OF BULLYING AND HARASSMENT AND INVESTIGATION OF COMPLAINTS

Only if you feel comfortable doing so, you always have the option of speaking with the person you feel is responsible for bullying and/or harassing you. If you decide to take this approach, then you should ensure that you tell the person that their behaviour is not welcome, that it upsets you, and that it is unacceptable and against the Sydney Opera House's policy and that you want it to stop.

Where the other person agrees to change their behaviour, you should ensure that you keep a written note of the substance of your discussion, and the agreement by the other person to change their behaviour.

If you are not comfortable confronting the person you feel is responsible for bullying and/or harassing you, you should then report the matter in the manner outlined below.

### Reporting a complaint

In the event a staff member, manager or supervisor is concerned that they or someone else has been subjected to bullying and/or harassment, they should report the matter at first instance (either verbally or in writing) to their immediate supervisor or the Director, People & Culture.

Where a supervisor is informed of a complaint, the supervisor must then report the matter (either verbally or in writing) to the Director, People & Culture.

### Investigation

After a complaint is received, Sydney Opera House will determine at its discretion whether an investigation is required, or if the matter can be resolved without the need to conduct an investigation. If a complaint is unable to be resolved without having conducted an investigation, the matter will be investigated.

- The methodology used in the investigation will vary depending on the circumstances and will be at the discretion of Sydney Opera House.
- Sydney Opera House will either appoint an internal person, or engage an external consultant as it sees fit, to investigate the complaint.
- The Investigator will conduct confidential inquiries with due care, respect and discretion at all times.
- Investigations will be conducted efficiently as possible. Specific timeframes for the completion of investigations will depend on the nature of the complaint and persons involved.
- The findings and recommendations of the investigation will be documented and referred to the appropriate authority for decision on investigation findings. It will remain at the discretion of Sydney Opera House as to whether the details of the investigation are provided to either the complainant or the subject of the complaint. At the very least, both the complainant and the subject of the complaint will be informed of the outcome of the investigation.

### Advice and support persons

Staff may seek advice and assistance from their Human Resources Consultant at any time throughout the investigation process.

If a staff member or contractor feels that it is necessary to have a support person at any interview, meeting or discussion with an investigator or any other person involved in the investigation process, then they may request to have such a person present. This person cannot be related to the matter and cannot be a legal representative.

Please be aware that the support person will not be permitted to speak on your behalf.

## Counselling

If you require any personal assistance in the nature of counselling you should feel free to contact Sydney Opera House's Employee Assistance Program Provider as outlined below. This applies to both a complainant and a subject of a complaint.

### PPC Worldwide Web portal

To login: [www.ppconline.info/au](http://www.ppconline.info/au)  
Username: SOH (all upper case)  
Password: SOHEAP (all upper case)

### Telephone

Toll free number: 1300 361 008

## Version Control

Version	Date	Author	Approval	Details/Comments
1.0	March 2010	Human Resources		Draft
1.1	May 2011	Human Resources		Revision following consultation
1.2	May 2011	Human Resources		Legal updates
1.3	July 2011	Human Resources		Revision following consultation
1.4	Oct 2011	Human Resources	Chief Executive	Revision following consultation
1.5	Feb 2012	Human Resources		Minor revision to align with EA
1.6	March 2016	Policy Officer		Replace references to repealed legislation and to new organisational roles. Minor formatting.