

Anti-Discrimination, Harassment, Bullying and Equal Employment Opportunity

Summary

TransGrid aims to provide an environment where employees and others in the workplace are treated fairly and with respect, and are free from unlawful discrimination, harassment, vilification, bullying and victimisation.

This document describes the appropriate standards of behaviour, as per TransGrid's Code of Ethics and Conduct and relevant legislation, expected of all employees, contractors and related persons whilst working at TransGrid.

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1. Purpose

TransGrid aims to provide a workplace environment where Workplace Participants are treated fairly and with respect, and which is free from unlawful discrimination, harassment, vilification, bullying and victimisation.

TransGrid aims to ensure that when employment decisions are made, they are not based on prohibited grounds. TransGrid also tries to create a work environment which promotes good working relationships amongst all.

2. Scope

This Policy applies to all Workplace Participants.

This Policy is not limited to the workplace or work hours. This Policy extends to all functions and places that are work related and to all interactions between Workplace Participants including non-work environments and online. For example, work lunches, conferences, Christmas parties, Safety Day, other work sponsored/linked functions, Facebook, Twitter and other social media platforms.

This Policy should be read in conjunction with any other relevant TransGrid Policies and Procedures, and in particular TransGrid's Code of Ethics and Conduct.

TransGrid may from time to time, at its absolute discretion, amend, replace, withdraw or depart from this Policy. This Policy not form part of any contract of employment or contract for services, and TransGrid is not bound by it.

3. Definitions & summary of terms used

Key terms and definitions relating to the Policy

Term	Definition
Bullying	Bullying is repeated, unreasonable behaviour directed towards an individual or group at work that creates a risk to health and safety.
Discrimination	Unlawful discrimination occurs when a person is treated less favourably, either directly or indirectly, based on a prohibited ground of discrimination.
Harassment	Harassment is unwelcome behaviour which a reasonable person would expect to offend, humiliate or intimidate another person, based on a Protected Attribute.
Protected Attribute	Is defined and set out in section 4.1 of this Policy.
Victimisation	Victimisation occurs when a person is treated less favourably or subjected to detriment because they have made or otherwise been involved in a complaint.
Vilification	Vilification is a public act which incites hatred, severe contempt or severe ridicule of a person or group who have a particular characteristic.
Workplace Participants	Employment Agreement employees, Contract employees, agents and contractors (including temporary contractors) of TransGrid.

4. Anti-Discrimination Laws

TransGrid is legally required to comply with a wide array of anti-discrimination laws, including:

- state and federal equal opportunity laws covering grounds of discrimination such as age, sex, sexual orientation, disability, race, religious or political beliefs and so on (including the *Anti Discrimination Act 1977* (NSW));
- reporting obligations on gender equality under the *Workplace Gender Equality Act 2012* (Cth); and
- general protections laws in relation to workers under the *Fair Work Act 2009* (Cth).

TransGrid and its Workplace Participants also owe duties in respect of workplace health and safety under the *Work Health and Safety Act 2011* (NSW).

Under legislation and this Policy, acts of unlawful discrimination, harassment, sexual harassment, vilification, bullying and victimisation are strictly prohibited.

4.1. Discrimination and harassment

Unlawful discrimination occurs when a person is treated less favourably, either directly or indirectly, in their employment based on a prohibited ground of discrimination (a **Protected Attribute**).

Protected Attributes include:

- Race (including colour, nationality, descent, ethnic, ethno-religious or national origin)
- Gender
- Pregnancy (including potential pregnancy)
- Carers' responsibilities, family responsibilities, carer or parental status
- Breastfeeding
- Industrial/trade union membership, non-membership or activity
- Transsexuality, transgender and gender identity
- Association (i.e. association with a person who has one or more of the attributes for which discrimination is prohibited)
- Religious belief or activity
- Marital status, relationship status
- Lawful sexual preference and activity
- Disability/ impairment (physical or intellectual)
- Age
- Political belief or activity

4.1.1. Discrimination

Direct Discrimination occurs when a person is treated less favourably than another because of a Protected Attribute.

Examples of Direct Discrimination include:

- criticising someone because of their Protected Attribute;
- repeatedly asking female employees only to do certain tasks like set-up or clean-up of team lunches;
- not offering development or work opportunities that are available to others because the employee is considered to be too old or because has a disability.

It is not unlawful discrimination if the discrimination is based on:

- genuine occupational qualifications or inherent requirements of a role; or
- is necessary to comply with law.

Unlawful discrimination can be a single act, and can occur even if the person did not intend to discriminate.

4.1.2. Harassment

Harassment is unwelcome or uninvited behaviour that offends, humiliates or intimidates a person on the basis of a Protected Attribute.

The fact that the person may not have intended to offend, humiliate or intimidate the other person is not relevant.

Harassment does not have to be directed at a particular individual to be unlawful. Behaviour which creates a hostile working environment for other Workplace Participants can also be unlawful if they feel intimidated, have an association with or identify with the particular Protected Attribute that is the subject of that behaviour.

Harassment may be a single act or repeated events. The person who is being harassed does not need to ask for the behaviour to stop as they may feel intimidated or unable to do so.

Examples of behaviour that may constitute harassment include:

- verbal abuse and ridicule;
- offensive jokes, suggestive or degrading comments;
- offensive physical contact;
- offensive pictures, posters or written material;
- threatening, abusive or offensive calls, letters, emails or SMS messages;
- persistent and unjustified complaints about another person;
- humiliating someone through gestures, sarcasm, criticism and insults; or
- spreading malicious gossip or rumours about a person.

Acts of physical violence or assault should be immediately reported to an appropriate Manager or where necessary the Police. TransGrid has a zero tolerance policy regarding violence, assault and threats by Workplace Participants against other people and property. This behaviour will not be condoned.

4.1.3. Sexual Harassment

Sexual harassment is unwelcome conduct of a sexual nature, if a reasonable person having regard to all the circumstances, would have anticipated the possibility that the recipient would feel offended, humiliated or intimidated.

Conduct can amount to sexual harassment even if the person did not intend to offend, humiliate or intimidate the other person.

Sexual harassment may be a single act or repeated events. The person who is being, or believes they are being, sexually harassed does not need to ask for the behaviour to stop as they may feel intimidated or unable to do so.

Sexual harassment does not have to be directed at a particular individual to be unlawful. Behaviour which creates a hostile working environment for other workplace participants can also be unlawful.

Examples of behaviour that may constitute sexual harassment include:

- deliberate and unnecessary intimate physical contact such as patting, pinching, touching, grabbing, kissing or hugging another person;
- staring or leering at a person or at parts of their body;
- inappropriate humour such as sexual jokes or innuendo;
- requests for sexual favours;
- persistent, unwelcome, requests to go out (on a date);
- sexually explicit conversations;
- displaying or sending pornographic or sexually explicit images;
- suggestive comments about a person's body or appearance;
- sending sexually explicit emails, voicemail or SMS messages;
- posting sexually offensive messages on social media; or
- enquiries or comments about a person's sexuality or sex life.

Sexual assault should be immediately reported to Police and Senior Management. TransGrid has a zero tolerance policy regarding sexual or indecent assault by Workplace Participants. This behaviour will not be condoned.

4.2. Bullying

Bullying is repeated, unreasonable behaviour directed towards an individual or group at work that creates a risk to health and safety. Behaviour will be considered unreasonable, if a reasonable person having regard to the circumstances of the behaviour, would expect the recipient to feel victimised, humiliated, undermined or threatened.

Bullying can take the form of physical, verbal and non-verbal conduct. Examples of bullying behaviour include, repeated:

- aggressive or intimidating conduct;
- spreading malicious rumours;
- practical jokes or initiation;
- exclusion from work-related events;
- unreasonable work expectations;
- using personal space to “stand over” another employee;
- belittling or humiliating comments; or
- refusing to acknowledge another employee e.g. ignoring greetings, not speaking directly to that person.

Genuine and reasonable management action (such as performance management) conducted in a reasonable manner does not constitute workplace bullying. Therefore, it is not bullying for a manager or supervisor to counsel or provide constructive feedback to a Workplace Participant on their performance. Performance management is a necessary part of ensuring that Workplace Participants meet TransGrid's standards of work and behaviour. Other reasonable managerial actions such as disciplinary action, work directions and orders, and allocation of work in compliance with business needs and systems do not constitute bullying.

Acts of physical violence or assault should be immediately reported to an appropriate Manager or where necessary the Police. TransGrid has a zero tolerance policy regarding violence and threats by Workplace Participants against other people and property. This behaviour will not be condoned.

4.3. Vilification

Vilification is a public act which incites hatred towards, severe contempt for or severe ridicule of a person or group on any ground covered by equal opportunity laws (e.g. race, sexual orientation, transgender or to have HIV/Aids).

Vilification can take many forms including hate-speech, graffiti and online posts.

4.4. Victimisation

Victimisation occurs when a person experiences retaliation or is subjected to a detriment because they have lodged a complaint, they intend to lodge a complaint or they are involved in a complaint (e.g. they have provided information or evidence in connection with a complaint).

Workplace Participants must not victimise (retaliate against) a person who raises a complaint or subject them to any detriment. Examples of victimisation include:

- ignoring an employee who has made a complaint about bullying;
- excluding the employee who has reported harassment from work opportunities;
- office gossip about a person who made a sexual harassment complaint; or
- excluding a co-worker from team activities because they assisted in an investigation into a complaint of inappropriate workplace behaviour.

A complaint of victimisation may be substantiated even if the underlying complaint is unsubstantiated.

5. Breach of this Policy

All Workplace Participants are required to comply with this Policy at all times.

If an employee breaches this Policy, they may be subject to disciplinary action, up to and including termination of employment.

TransGrid may terminate or not renew the contract of any agent or contractor (including temporary contractors) who TransGrid considers has engaged in conduct that is unlawful, including the types of conduct described in this Policy.

If any Workplace Participant makes an unfounded or false complaint without any reasonable basis or in bad faith (e.g. making up a complaint to get someone else in trouble or making a complaint where there is no foundation for the complaint), that person may be subject to disciplinary action.

TransGrid's policy on Appropriate Use of Email, Internet and Computer Resources provides further information in relation to expectations when using TransGrid's information and communication technology resources.

6. Liabilities

Workplace Participants should be aware that:

- some instances of misconduct under this Policy may also constitute a breach of law; and
- if they engage in such conduct, there could be held personally liable under the law for that conduct, and may expose TransGrid to risk of legal liability.

Workplace Participants who aid, abet or encourage other persons to engage in unlawful conduct, may also be in breach of law and, if an employee, may also be subject to disciplinary action.

Workplace Participants must ensure that they:

- do not engage in any unlawful conduct towards other Workplace Participants, customers/clients or others with whom they come into contact through work;
- do not aid, abet or encourage other persons to engage in unlawful conduct;
- report any unlawful conduct they see occurring to others in the workplace; and
- maintain confidentiality if they are involved in a grievance management and investigation process in respect of any complaint of such conduct.

7. Complaints and investigation processes

As set out in TransGrid's various policies and procedures, TransGrid offers a number of avenues to Workplace Participants who believe that they have been subjected to conduct which is in breach of this Policy. Some steps that can be taken include:

- speak with your team leader or manager
- speak with a senior manager
- speak with a HR manager
- call the Workplace Behaviour Hotline (as set out in the Grievance Management and Investigation Procedure)
- reach out to the Whistleblower Service
- contact a Union representative
- take advantage of the Employee Assistance Program

If a Workplace Participant feels that they are being harassed, discriminated against or bullied they are encouraged in the first instance to immediately raise the matter with their direct manager, other appropriate manager or Human Resources. Where a Workplace Participant feels unable to raise the matter directly with any of these people, they should refer to the Grievance Management and Investigation Procedure for information on how to lodge a complaint or grievance.

TransGrid's Grievance Management and Investigation Procedure outlines how such matters are to be investigated and provides information on options for resolution and support.

Alternatively, TransGrid's Whistleblower Service is an independent service which gives Workplace Participants the opportunity to anonymously blow the whistle on suspected or actual misconduct (including unethical behaviour such as bullying and harassment) which may have a negative effect on the workplace.

TransGrid's Employee Assistance Program is a free and confidential short term advice and counselling service which aims to assist Workplace Participants in resolving personal and work related issues.

8. Accountability

Title	Responsibilities and Accountabilities
Workplace Participants	<ul style="list-style-type: none"> > Must ensure that they comply at all time with this Policy. > It is the Responsibility of all Workplace Participants to ensure that they behave in the workplace or at work functions in a lawful and professional manner.
Managers & Team Leaders	<ul style="list-style-type: none"> > Monitoring the working environment to ensure acceptable standards of conduct are observed at all times. > Ensuring that Workplace Participants under their supervision or control are informed of and understand this Policy. > Where breaches are observed or reported Managers/Team Leaders are required to treat such issues seriously and sensitively and consider the Grievance Management and Investigation Procedure to assist in the resolution of such matters.
Head of People and Culture	<ul style="list-style-type: none"> > Ensuring that appropriate procedures are in place and communicated to Workplace Participants to ensure that they are aware of appropriate standards of behaviour in the workplace in relation to equal opportunity, Discrimination, Harassment, Bullying, Vilification and Victimisation. > Ensuring that allegations of breaches of this Policy are appropriately responded to.

8. Implementation

This Policy will be implemented by:

- > Publication on the intranet ('the Wire')
- > Communications to all Workplace Participants
- > Regular training

10. Monitoring and review

This policy is to be reviewed in accordance with TransGrid quality processes.

11. Change from previous version

Revision no	Approved by	Amendment
3	Chris Pemberton Executive Manager Corporate Services	Policy reviewed and updated for currency.
2	Manager People and Culture	Clarified that the policy extends to all interactions between Workplace Participants including in non-work environments and online. Clearly stated TransGrid's zero tolerance policy regarding violence and threats by Workplace Participants against other people and property. Provided clear examples of behaviour that constitutes direct discrimination, harassment, bullying and victimisation. Legislative updates and reference to TransGrid Business Ethics a Guide to Contractors, Customers and Suppliers
1	EGM/People & Corporate Services	Bullying Definition and examples updated in line with amendments to the Fair Work Act 2009 References to the Occupational Health and Safety Act update to Work Health and Safety Act 2011

12. References

Code of Ethics and Conduct

TransGrid Business Ethics a Guide to Contractors, Customers and Suppliers

Disciplinary Process GD ES G2 017

Grievance Management and Investigation Process GD ES G2 062

Appropriate Use of Email, Internet and Computer Resources GD ES G1 023

Whistleblower Service

Employee Assistance Program

Anti-Discrimination Act 1977 (NSW)

Fair Work Act 2009 (Cth)

Work Health and Safety Act 2011 (NSW)

Workplace Gender Equality Act 2012 (Cth)