

# WesCEF Discrimination Harassment and Bullying Policy

Number	WCEF-PO-HRS-000-04				
Reasons for Creating or Amending Document	New or Amended Process, Full Review of Document				
Actual Change Details	1. Purpose - Explicit reference to antidiscrimination policy. Added in Positive duty and rewording 2. Scope - Clarification provided about who constitutes 'External Personnel' 3. Responsibilities - Separated WesCEF responsibilities from worker responsibilities. 4. Reflects positive duty and Legislation - Requirement to comply with legislation reworded 5. Definitions - Retitled the section to: Unacceptable Behaviour. Definitions outlined. Examples of what is not bullying. 6. Process - Included information on external bodies where complaints can be referred to. Included information on circumstances where WesCEF may be required to report to relevant authorities. Section 7 and 8 added in detail about training and consequences				
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# WesCEF Discrimination Harassment and Bullying Policy

## 1. Purpose

Wesfarmers Chemicals, Energy & Fertilisers (WesCEF) is committed to providing a respectful and inclusive workplace that is free from discrimination, harassment and bullying.

WesCEF has a positive duty to take proactive and reasonable measures to eliminate or, where elimination is not reasonably practicable, minimise the risk of unlawful discrimination, harassment and bullying in the workplace. This duty includes identifying and assessing risks, implementing controls and reasonable adjustments, monitoring the effectiveness of those measures, and reporting aggregated outcomes to senior leadership.

This policy is to be read in conjunction with the Code of Conduct, Diversity and Equal Employment Opportunity (EEO) Policy, Grievance Resolution Policy and Poor Performance and Misconduct Policy.

## 2. Scope

This policy applies to all of the WesCEF division, which includes all business units and departments in the division.

External Personnel are contractors, consultants, agents and other intermediaries engaged by or representing WesCEF. External Personnel are expected to know and observe standards and should be made aware of this policy at all times.

Breaches of this policy will be treated seriously and dealt with under the relevant WesCEF policies, procedures and legislation.

This policy applies to any conduct that in the reasonable opinion of WesCEF is connected to the division, including but not limited to when an employee or External Person, when representing WesCEF, are outside of the workplace or working hours such as functions, meetings, conferences or forums.

## 3. Responsibilities

The *Work Health Safety Act 2020* imposes an obligation on all employees and External Personnel (workers as defined under the Act) to take reasonable care for their own health and safety, and to take reasonable care that their acts or omissions do not adversely affect the health and safety of others, this includes through incidents of harassment, bullying and unlawful discrimination.

WesCEF believe that all employees and External Personnel have the right to a respectful workplace and in turn are also required to conduct themselves in a manner that aligns with WesCEF expectations.

All Employees and External Personnel have:

- a right to work in an environment that is free from bullying, harassment and discrimination;
- a responsibility to lead by example, taking personal responsibility for their conduct, treating others with dignity and respect and ensuring their behaviour does not constitute, or encourage, bullying, harassment or discrimination; and
- a right to make a complaint of bullying, harassment and discrimination without being subject to any adverse treatment, retaliation or retribution.

All Employees and External Personnel must:

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- must also comply with the Code of Conduct and exhibit respectful behaviour at all times;
- comply as a minimum with all relevant State and Federal legislation to ensure equal treatment and to prevent discrimination, harassment and bullying in the workplace and in activities connected to work.
- this includes but is not limited to when an employee or External Personnel, when representing WesCEF are outside of the workplace or working hours such as functions, meetings, conferences or forums.
- This also includes employees or External Personnel online conduct where it can be demonstrated there is an nexus to employment.

Managers and supervisors (including where a person's role involves supervisory responsibilities) have additional responsibilities including:

- ensuring the WesCEF Discrimination, Harassment and Bullying Policy is communicated and adhered to;
- ensuring that acceptable standards of conduct are observed at all times, including a zero tolerance of any behaviour that may constitute bullying, harassment or discrimination;
- taking early corrective action to deal with behaviour that may be inappropriate, offensive or intimidating, even if a complaint has not been made;
- Reporting any incident of discrimination, harassment and/or bullying involving a WesCEF employee or where it occurs on premises belonging to WesCEF, to their manager or a WesCEF representative, in a timely manner;
- Providing appropriate support for impacted employees and External Personnel who have reported concerns;
- Seek advice and support from Human Resources as required; and
- Leaders must model exemplary behaviours at all times.

Human Resources are required to ensure the appropriate tools and support is available to enable leaders to identify, investigate and appropriately manage any behaviours that do not align with these requirements or the Code of Conduct.

## 4. Positive Duty / Legislation

WesCEF take a proactive risk management focused on preventing unlawful or inappropriate conduct before incidents occur.

To assist with this risk management approach and the elimination of incidents, WesCEF will:

- Conduct workplace risk assessments to identify hazards and groups at risk, document findings and assign timebound remediation actions.
- Implement elimination controls where reasonably practicable; where elimination is not possible, implement and document reasonable minimisation controls and adjustments.
- Include prevention measures in recruitment, procurement and contractor management processes.
- Ensure all reasonable adjustments requested for a protected attribute are considered and implemented where practicable.
- WesCEF will ensure that any non compliant behaviour is managed appropriately and reported to the leadership team and is reflective in the risk and compliance reporting.
- Leaders will ensure that these activities take place at the required cadence and that any emerging risk are reported and managed appropriately.

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## 5. Unacceptable Behaviour

At WesCEF, all employees and External Personnel have the right to be able to work in a safe, respectful and inclusive environment that is free of unlawful behaviour. Bullying, harassment and discrimination are unacceptable and WesCEF will not tolerate inappropriate behaviour under any circumstances.

### 5.1 Discrimination

Discrimination occurs when a distinction, restriction, exclusion or preference is made on the basis of an attribute that impacts the equality of another person. This attribute may include but is not limited to: race or colour; nationality or ethnic origin; sex; pregnancy; marital status; age; disability; religion; sexual orientation; gender identity; trade union activity; or some other characteristic specified under antidiscrimination or human rights legislation.

Discrimination can be:

- Direct where an individual receives less favourable treatment than another in the same or similar circumstance based on the grounds listed above.
- Indirect when a rule, policy or practice appears to treat everyone equally but has an adverse impact by treating a particular group or individual unequally or less favourably.

### 5.2 Harassment

Harassment refers to a wide range of behaviours that are offensive in nature, including behaviour that demeans, humiliates or embarrasses a person. A one-off incident may be harassment.

Specific examples of harassment include, but are not limited to, sexual harassment and racial harassment.

- Sexual Harassment under the Sex Discrimination Act 1984 (Cth) occurs:
  - (a) if a person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed; or
  - (b) engages in other unwelcome conduct of a sexual nature in relation to the person harassed;

in circumstances in 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.

Sexual harassment may be deliberate or unintentional and may include, but is not limited to examples such as; sexually graphic calendars, pinups, cartoons, graffiti or screen savers; photographic images depicting naked or semi naked people; written messages or emails; suggestive nonverbal gestures; smutty jokes or verbal remarks; body contact such as rubbing, pinching, patting or massaging; suggestive comments or inferences about a person's appearance or sexual morality.

See Appendix A – "Identifying when sexual harassment occurs" for further examples of when sexual harassment may occur.

- Racial Harassment occurs when a person threatens, abuses, insults or taunts another person because of their race, and the objection of this behaviour or the person harassed believes the objection of this behaviour will disadvantage them.

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- Racial harassment may also be deliberate or unintentional and may include, but is not limited to examples such as; racially offensive cartoons, graffiti or screen savers; written messages or emails; jokes or verbal remarks; comments or inferences about a person's appearance.

Harassment can extend to use of electronic media and social media; can occur at work or outside of the workplace; and/or occur within or outside work hours.

The Electronic Usage Policy outlines the obligations of in the use of electronic media, and addresses unacceptable behaviour relating to information systems. The Social Media Policy outlines responsibilities, obligations, and appropriate behaviour for and external personnel identifiable as being associated with or making comment about WesCEF while using social media. and External Personnel, are to refer to both policies for further information.

## 5.3 Bullying

Bullying is repeated and unreasonable behaviour towards a person or persons that creates a risk to health and safety in the course of their employment. It includes behaviour that harms, threatens, victimises, intimidates, offends, degrades or humiliates another person or persons. It does not include reasonable management action (e.g. performance management).

Examples of bullying include, but are not limited to: acts of violence and intimidation; loud and abusive language; humiliation; acts of sabotage; isolating or ignoring a team member and unwelcome practical joking. It may also involve exclusion from events and less favourable treatment than others in regards to rosters, benefits or work environments / rotations. Bullying can occur in person or electronically via mediums such as social media and email, and may be verbal, non-verbal or physical.

Examples that would not constitute bullying include, but are not limited to: reasonable performance management, lawful and reasonable work instructions, individual or organisational changes with reasonable consultation, valid feedback or coaching delivered in an appropriate manner and conducting workplace investigations where concerns have been raised.

## 6. Process

Where practical and appropriate, Employees and External Personnel are encouraged to try and resolve the matter directly with the person involved. Where this is unsuccessful or inappropriate, the employee or External Person should consult the Grievance Resolution Policy and Grievance Resolution Procedure for guidance on resolution.

In line with WesCEF's commitment to eradicating inappropriate and disrespectful behaviours from the workplace, WesCEF will take ensure that there is:

### 6.1 Early Intervention and Risk Assessment

Leaders must take early corrective action where inappropriate behaviour or risk is observed and document action taken in response to the inappropriate conduct.

Leaders must ensure that any concerns raised by employees or External Personnel are investigated appropriately and in a confidential and timely manner.

HR will review on a regular basis past issues relating to inappropriate behaviours and work collaboratively with leadership to ensure the appropriate intervention is occurring.

Risk assessments will be used to inform remediation plans and proactive strategies.

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## 6.2 Reporting and Investigation

All matters should that are raised should be appropriately investigated in a timely manner and where necessary due to their severity are escalated to the Executive Leadership team in a timely manner.

Outcomes of these investigations should be documented, stored confidentially and appropriate action taken.

Reporting to the Executive Leadership team should occur on these matters on a regular basis using de-identified data and outlining any trends both positive and negative.

## 6.3 Contractors and External Personnel

Contracts with External Personnel providers (Contracting Companies) should include for their employees to be aware of and comply with the Code of Conduct and required behavioural obligations.

Contracting Companies should be informed that WesCEF has the right to request the removal of personnel for breaches of Code of Conduct or required behaviours.

Contracting Companies are required to notify WesCEF as soon as practicable or no later than 24 hours of any incidents that may have occurred.

Procurement documentation should include behaviour expectations and sanctions for non-compliance and the requirement for the Contracting Company to have a proactive approach on educating their employees and eradicating any form of harassment, discrimination, bullying or disrespectful behaviour from their workplace.

## 6.4 Whistleblower and External Referral

The Whistleblower Policy remains available as an alternative confidential reporting channel for unethical, illegal, fraudulent or undesirable conduct.

Complaints may also be referred to external bodies such as the Australian Human Rights Commission or the Fair Work Commission.

## 6.5 Frivolous or Vexatious Complaints

WesCEF will consider disciplinary action where complaints are found to be frivolous or vexatious following a fair assessment.

## 6.6 Criminal Conduct

In cases of assault, sexual assault or other behaviour that may constitute a crime, WesCEF may be required to report the incident to police or other relevant authorities.

## 7. Training and Communication

WesCEF will ensure that employees and External Personnel are aware of their obligations by:

**Employees:** All employees must complete training that details the required behaviours whilst working at or representing WesCEF. This must be completed every two years.

**Leadership Accountabilities:** People leaders and managers must be aware of their responsibilities about role modelling appropriate conduct, proactively managing any deviations to the required standards and ensuring they are reported in a timely manner. This module must be completed every two years.

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**Communication:** WesCEF will communicate the policy, reporting channels and available support to employees and External Personnel at induction and at frequent intervals.

## 8. Consequences

All Employees and External Personnel are personally responsible for their conduct.

All and External Personnel who raise a genuine complaint under this policy will not be subjected to any unfavourable treatment or victimisation as a result of making the complaint.

Appropriate disciplinary action will be taken against any employee who is found to have engaged in inappropriate behaviour as outlined in this policy, or who makes a fraudulent or vexatious complaint. Depending on the seriousness of the incident, this may result in termination of employment.

Appropriate action will be taken any Contracting Company where their employee or agent is found to have engaged in inappropriate behaviour, which may include termination of services.

Leaders who fail to model appropriate behaviours or fail to identify, report, investigate or appropriately manage concerns raised about their employees behaviours may be subject to disciplinary action.

WesCEF has a duty to prevent discrimination, harassment and workplace bullying and may be found vicariously liable for an act of discrimination, harassment or bullying by its or External Personnel.

## 9. Related Documents

- Anti-bribery Policy
- Code of Conduct
- Diversity and Equal Employment Opportunity Policy
- Electronic Usage Policy
- Fraud Risk Management Policy
- Grievance Resolution Policy
- Grievance Resolution Procedure
- Poor Performance and Misconduct Policy
- Recruitment and Selection Policy
- Recruitment and Selection Procedure
- Whistleblower Policy
- Social Media Policy

## 10. Document Management

Supersession

This policy supersedes all previous Human Resources policies on discrimination, harassment and bullying.

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Currency

This policy applies from the date of issue until it is replaced by another policy.

For further information please contact Human Resources

## 11. Appendix A – Identifying When Sexual Harassment Occurs

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Sexual harassment is an unwelcome advance, request or conduct of a sexual nature, which makes a person feel offended, humiliated or intimidated.

Sexual harassment can vary from distasteful comments to sexual predation.

Sexual harassment includes:

Unwelcome comments about looks, dress, hairstyles

Staring or leering

Stalking, following

Whistling and catcalling

Demeaning comments

Sexual objectification of people

Suggestive comments or jokes of a sexual nature, or about a person's sexual orientation or gender identity

Repeated or inappropriate invitations to go out on dates

Unwelcome touch gestures e.g. arm around, kiss hello

Touching or fiddling with a person's clothing

Forced intimacy e.g. touching, massaging, hugging, kissing

Requests or pressure for sex or other sexual acts

Sexually explicit emails, text messages or social media

Sexually explicit pictures or posters displayed around the office

Intrusive questions about a person's private life, body, sexual relationships or sexual practices

Uninvited, repeated personal contact via email or social media that makes suggestive or demeaning comments or makes inappropriate requests or suggestions of a sexual nature

Ongoing unwelcome contact (e.g. in person, phone, email, social media) following the end of a consensual relationship

Actual or attempted sexual assault or rape



These behaviours vary in seriousness and can occur in isolation or together. Normalising, tolerating and excusing disrespectful behaviour at the lower end of the continuum can lead to more serious issues.