

# Discrimination, Bullying and Harassment Policy

Status: Approved

Policy issued: December 2017

Policy owner: Head, Employee Relations

People & Culture

82 2855

## Policy Statement

We encourage and support positive workplace behaviours that reflect our values of integrity, respect, collegiality and innovation.

Behaviour like bullying, discrimination and harassment is clearly at odds with our values, as well as potentially breaching the law – and this will not be tolerated.

## Purpose of this Policy

This policy is to make you aware of your obligations: together with the [ABC Grievance Resolution Guidelines \[PDF 125 Kb\]](#):

- not to harass, discriminate, bully or victimise others and the consequences of such conduct; and
- when making a grievance or complaint.

For information on how to raise issues of bullying, harassment and discrimination, and information about the approach we may take to resolve these issues, see the ABC Grievance Resolution Guidelines.

## Who and when

This policy applies to all ABC employees, all ABC suppliers, contractors and subcontractors, work experience students, interns and all ABC volunteers (**Workers**).

The expectations of behaviour set out in this policy apply:

- in the workplace (including outside normal working hours),
- while undertaking work activities (including interactions with third parties and while working away from the ABC's premises),
- at work-related events (including conferences and social functions whether during or outside business hours where the interaction is with other workers, whether in person, through email, messaging, social media and other means of communication).

# Our Commitment

We will:

- take all reasonable steps to ensure that our workplaces are free from unlawful discrimination, harassment and bullying;
- respect the right of and encourage our people to raise legitimate issues or concerns and lodge grievances or complaints in accordance with this policy and the [ABC Grievance Resolution Guidelines \[PDF 125 Kb\]](#);
- treat all grievances raised under this policy seriously;
- take appropriate action to address inappropriate workplace behaviours;
- ensure that people involved in the grievance process are not victimised.

## Your obligations

You must not engage in any behaviour which may constitute unlawful:

- bullying;
- discrimination; and
- harassment (including sexual harassment).

That behaviour will not be tolerated by the ABC. If you see inappropriate behaviour, you should raise it straight away with your manager or ABC People & Culture.

In resolving grievances, you must:

- ensure that any grievances or complaints that you raise are genuine and not false, malicious, frivolous, misconceived or vexatious,
- participate in any grievance resolution process in good faith, clearly identify the issues of the grievance and provide all relevant information in support of the grievance.

## Bullying

All of us at the ABC have a legal obligation not to bully anyone and to treat each other with respect and courtesy.

Bullying in our workplace is unacceptable and will not be tolerated.

### What is bullying?

*Workplace bullying is repeated, unreasonable behaviour directed towards a Worker or a group of Workers, which creates a risk to health and safety.*

**Repeated** refers to the persistent or ongoing nature of the behaviour and can involve a range of behaviours over time.

**Unreasonable behaviour** means behaviour that a reasonable person, having regard to all the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.

The following types of behaviour, whether intentional or unintentional, may be workplace bullying if they are repeated, unreasonable and create a risk to health and safety:

- abusive, insulting or offensive language or comments;
- aggressive and intimidating conduct;
- belittling or humiliating comments;
- victimisation;
- practical jokes or initiation;
- unjustified criticism or complaints;
- threatening to expose an individual's sexuality, intersex status, or trans or gender diverse identity;
- withholding information that is vital for effective work performance;
- intentionally setting unreasonable timelines or constantly changing deadlines;
- intentionally setting tasks that are unreasonably below or beyond a person's skill level;
- denying access to information, supervision, consultation or resources to the detriment of the Worker;
- spreading misinformation or malicious rumours;
- changing work arrangements such as rosters and leave to deliberately inconvenience a particular Worker or Workers;
- speculating with colleagues about an individual's sexuality, intersex status, or trans or gender diverse identity;
- deliberately excluding someone from work-related activities.

Workplace bullying can be carried out in a variety of ways, including through verbal or physical abuse, through email, text messages, internet chat rooms, instant messaging or other social media channels.

In some cases, workplace bullying can continue outside of the workplace. It can be directed at a single Worker or a group of Workers and be carried out by one or more person.

Workplace bullying can occur upwards (i.e. directed towards a manager or supervisor), sideways (i.e. directed towards a colleague or contractor) or downwards (i.e. directed towards a subordinate or work experience participant).

### **What is not bullying?**

A single incident of unreasonable behaviour is not workplace bullying but can be raised as a workplace grievance.

Reasonable management action carried out in a reasonable manner is not workplace bullying.

The ABC may take reasonable management action to effectively direct and control the

way work is carried out. It is reasonable for managers and supervisors to allocate work and give feedback on a worker's performance. These actions are not workplace bullying if they are carried out in a lawful and reasonable way, taking the particular circumstances into account.

A manager exercising legitimate authority at work may cause some discomfort for a Worker. The question of whether management action is reasonable is determined by considering the actual management action rather than a worker's perception of it. Where management action involves a significant departure from established policies or procedures, whether the departure was reasonable in the circumstances.

The following examples could be considered as reasonable management action:

- setting realistic and achievable performance goals, standards and deadlines;
- fair and appropriate rostering and allocation of working hours;
- transferring a Worker to another area or role for operational reasons;
- informing a Worker about unreasonable behaviour in an objective and confidential way;
- implementing organisational changes or restructuring;
- providing reasonable feedback as part of the performance appraisal and/or management process;
- taking disciplinary action, including suspension or terminating employment where appropriate or justified in the circumstances.

Differences of opinion and disagreements are not workplace bullying. People can have differences or disagreements in the workplace without engaging in repeated, unreasonable behaviour that creates a risk to health and safety. Some people may also take offence at action taken by management, but that does not mean that the management action in itself was unreasonable. However, in some cases conflict that is not managed may escalate to the point where it becomes workplace bullying.

## **Discrimination**

### **What is unlawful discrimination?**

Discrimination can be direct or indirect.

Direct discrimination is treating one person less favourably than another because of one of the prohibited grounds of discrimination.

In Australia, unlawful grounds include, but are not limited to:

- (a) sex;
- (b) race, colour, descent, nationality or national origin;
- (c) age;
- (d) impairment/disability;
- (e) sexual preference;
- (f) gender identity and transgender status;
- (g) pregnancy or potential pregnancy;

- (h) marital status;
- (i) family responsibilities, responsibilities as a carer and/or parental/carer status;
- (j) religious or political beliefs; and
- (k) trade union membership or industrial activity.

An example of direct discrimination would be deciding not to employ a person because they are from a particular ethnic background.

Indirect discrimination describes a situation or condition which seems at face value to be neutral, or the same for everybody, but with which a person or group of people with an attribute (e.g. parental status, impairment, race) are unable or less able to comply because of that attribute. An example of this is a person with a disability is prevented from accessing the equipment they need to do the job because of the way the workplace is designed.

It is unlawful to discriminate on a prohibited ground even if it was unintended.

There are exceptions from anti-discrimination laws which may apply in some situations - for example, because of the inherent requirements of a particular job, an occupational qualification, where it would otherwise cause unjustifiable hardship to the employer in the case of disability or where it is necessary to comply with other laws including those relating to health and safety.

## Unlawful Harassment

### What is unlawful harassment?

*Unlawful harassment is a form of unlawful discrimination. It is any form of behaviour that is unwelcome or uninvited, that a reasonable person would have anticipated would humiliate, offend or intimidate the person exposed to the conduct and that is based on one of the grounds of unlawful discrimination (refer to 'External Authorities and Grounds of Discrimination').*

Harassment, like discrimination, can be unlawful if it is based on one of the prohibited grounds.

Unlawful harassment can include behaviour such as:

- telling offensive jokes about particular racial groups;
- making insulting comments or taunts about someone's race or religion;
- humiliating comments or actions about a person's disability, such as insults;
- working in an environment that is hostile or intimidating towards a particular sex, race, or culture;
- harassing colleagues through social networking media sites; and
- sending harassing text messages to colleagues.

While harassment generally involves a pattern of behaviour, it can also result from a single incident.

Reasonable management action, as described under bullying above, is not harassment.

# Sexual Harassment

## What is sexual harassment?

Sexual harassment occurs where a person:

- makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to another person; or
- engages in other unwelcome conduct of a sexual nature in relation to the other person,

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.

Examples of sexual harassment include:

- showing or sending obscene, suggestive or pornographic pictures, emails, text or graphics;
- asking intrusive questions or making unwelcome comments about a colleague's personal life or body, including their sex life;
- unwanted invitations to go out on dates or requests for sex;
- staring or leering; and
- behaviour that would also be an offence under criminal law such as indecent assault, sexual assault, indecent exposure, stalking or obscene communications.

Mutual attraction between people is not sexual harassment. Conduct which is welcome or consensual is not unlawful, and friendships (sexual or otherwise) which develop between people who meet at work are a private concern provided they do not adversely impact on the workplace or create a conflict of interest.

However, you should take great care before engaging in conduct you believe to be welcome. Always remember that some people may not feel comfortable telling you that your behaviour is offending them and is not welcome. This may be because of their personality or may be because of the relative status of the people involved (e.g. they are too worried about the possible impact on their employment if they complain).

It is your responsibility to ensure that you do not engage in conduct which is not welcome.

You should also remember that even conduct which is welcome may not be appropriate in the workplace. If you are unsure whether conduct is appropriate, you should speak to your manager or [People & Culture](#).

You will be liable for your own unlawful conduct. The ABC may also become liable for that conduct.

If you do not feel comfortable with someone else's behaviour, you should tell them, or if you don't feel able to do so, raise the issue with your manager or [People & Culture](#).

## How to raise a grievance

You can raise a grievance or concern about unlawful bullying, harassment and discrimination using the [ABC Grievance Resolution Guidelines \[PDF 125 Kb\]](#). The Guidelines also set out information about the approaches we may take to resolve these issues.

## Consequences of breach

Breaches of this policy may lead to disciplinary action, including possible termination of employment. In addition, legal action may be taken for certain conduct in breach of this policy.

## Related documents

This policy should be read in conjunction with the following related documents:

- [ABC Grievance Resolution Guidelines \[PDF 125 Kb\]](#)
- [ABC Workplace Complaint/ Grievance Form](#) [PDF 129 Kb]
- [ABC WHS policies](#)

## General

This policy summarises some of the rights and obligations which are created by the legislation. The policy is not intended to go beyond the legislation. If you are an employee, you should read this policy in conjunction with the applicable ABC employment agreement, but it does not form part of your contract of employment.

## Questions?

If you have any questions about this policy, your obligations or the grievance process, please [contact People & Culture](#).

## Document history

- Reviewed 2009 (Endorsed by PRG 7 Oct 2009; Approved by OSG 28 Oct 2009)
- Reviewed 2012 (Endorsed by PRG 26 Sep 2012; Approved by OSG 8 Oct 2012)
- Reviewed 2013 (Endorsed by PRG 20 Nov 2013; Approved by Executive 2 Dec 2013)
- Superseded policies - Workplace Behaviour Policy
- Reviewed November 2017 (Approved by ABC Board 30 November 2017)
- Updated January 2020 with amendments to page 3 (Approved by Head Employee Relations)

# COMPLAINT & GRIEVANCE RESOLUTION GUIDELINES

Related Policy	<a href="#">Discrimination, Bullying &amp; Other Workplace Behaviours Policy</a>
Effective date	10 November 2014

## PURPOSE OF THESE GUIDELINES

These Guidelines provide a mechanism for you to raise genuine workplace grievances and complaints, including in relation to potential bullying, harassment or discrimination or other workplace grievances about work or about your work environment, in good faith.

## WHO THESE GUIDELINES APPLY TO

These Guidelines apply to:

- all ABC employees - including casuals, fixed-term and specified task employees, employees on probation, part-time employees, managers, actors, employees working from home as well as fulltime and ongoing employees;
- all ABC suppliers, contractors and subcontractors, including people providing services to the ABC through a labour hire company or on a contract basis or on secondment from or to another organisation, even if they are only working at the ABC on a temporary basis; and
- outworkers, apprentices, trainees, students, graduates and others on work experience or undertaking voluntary work at the ABC.

## WHEN THESE GUIDELINES APPLY

A grievance can be raised in relation to any act, behaviour, omission, situation or decision that has an impact on a person which they think is unfair or unjustified. A grievance can relate to almost any aspect of a person's work including, but not limited to:

- interpersonal conflicts and difficulties;
- rostering and/or working hours;
- staff development and training;
- supervision;
- leave approval and allocation;
- general work environment;
- misuse of corporate resources; and
- requests for flexible working arrangements.

Grievances relating to the following issues cannot be dealt with under these Guidelines and must instead be dealt with under their own specific guidelines and procedures:

- disputes between employees and the ABC that are in the process of being, or have been, dealt with under the dispute resolution procedures of any applicable industrial instrument;
- recruitment and selection decisions (if a procedure is set out in any applicable industrial instrument for dealing with such decisions);
- performance management decisions (if a procedure is set out in any applicable industrial instrument for dealing with such decisions);
- misconduct and serious misconduct proceedings and decisions (if a procedure is set out in any applicable industrial instrument for dealing with such decisions); and
- grievances raised by executives under the relevant enabling clauses of any applicable industrial instrument or under the terms of their individual agreements.

#### **STEP 1: RESOLVING THE ISSUE YOURSELF**

As a first step, and assuming it is appropriate, you should seek to resolve the issue yourself by raising the issue with your colleague before lodging an informal or formal grievance. In particular, you should not ignore circumstances where you feel you are being discriminated against, bullied or harassed, thinking it will go away. Ignoring the behaviour could be taken as silent approval by the person who is carrying out the potential bullying, harassment or discrimination.

If the issue relates to potential bullying, harassment or discrimination and you feel comfortable to do this, ask the person to stop, or make it clear that you find the behaviour unreasonable, offensive, intimidating or unwelcome. The person may not be aware that their behaviour is unreasonable, offensive, intimidating or unwelcome and may stop once you ask them to. It may be useful to speak with your manager/supervisor or a member of your ABC People & Culture team, for some advice on how to do this.

When you raise the issue with your colleague you should clearly detail the behaviour, the decision or process that is of concern and the impact of that behaviour, decision or process on you. Explaining this gives the other person the opportunity to recognise and then address the issue.

You should also give some thought to how you believe the issue can be resolved and discuss this with your colleague.

Any person who requires advice, information or support in relation to a grievance should contact their manager/supervisor (if appropriate) or a member of the [ABC People & Culture team](#).

## STEP 2: INFORMAL PROCESS

If you feel uncomfortable approaching your colleague directly or if you have not been able to successfully resolve the issue yourself, you should consider using an informal process to try to resolve the issue as quickly as possible.

To raise an issue informally you can discuss the issue with your Manager, your next level Manager, or a member of your [ABC People & Culture team](#). The person you raise the issue with may need to refer it to or seek advice from ABC People in order to help you resolve the issue. You should raise the issue as soon as possible or ideally within 28 days of the incident/issue occurring.

Notwithstanding that a grievance may have been raised informally the ABC may need to resolve the matter in accordance with any applicable industrial instrument if the conduct involves allegations of misconduct or serious misconduct. If this is the case the grievance may need to be dealt with in a more formal manner.

The ABC will determine whether the grievance should be dealt with formally or informally.

If you raise a grievance you must participate in any grievance resolution process in good faith, clearly identify the issues of the grievance and provide all relevant information in support of the grievance.

A supervisor, manager or a representative of the [ABC People & Culture team](#) may become aware of unacceptable conduct and take independent action even though no grievance has been raised.

An informal resolution process involves a third party who assists you and your colleague(s) to resolve the issue. This person may be a manager, senior member of staff, a member of your ABC People & Culture Team or other suitable individual.

They will conduct an initial meeting with the person raising the grievance as soon as practicable. Their role is to assist you and your colleague(s) to identify the issues and attempt to reach agreement on how to address the issues and to try and reach an agreed outcome. Examples of informal methods that may be used to resolve an issue include:

- providing assistance to help you raise the issue with the person concerned;
- facilitating an informal discussion between you and your colleagues;
- conducting or arranging mediation between you and your colleague(s), with your and the ABC's agreement and with the assistance of your ABC People & Culture Team, if mediation is appropriate or if it is required under any applicable industrial instrument;

- reviewing any decisions, systems, conditions or actions causing the grievance;
- liaising with the other relevant Manager; and
- conducting a fact-finding process.

Examples of the outcomes of an informal process may include:

- a joint agreement between you and your colleague(s);
- an apology;
- overturning or amending a decision;
- implementing staff training; or
- implementing a new system, policy or procedure.

### **STEP 3: FORMAL PROCESS**

If the issue cannot be resolved informally or if the Chief People Officer (or delegate) determines that the informal procedure is inappropriate, then a formal resolution process may be used. ABC People & Culture will determine the appropriate process and explain the process for dealing with your grievance to you.

If you are raising the grievance and have not already done so, you will be asked to confirm the details of your grievance in writing. This can be done by completing the [ABC Workplace Complaint/ Grievance Form](#). You should specify the grounds of your grievance, where possible the date(s) and times of the incident(s), the name of any witnesses and the remedy you are seeking. You should also provide any supporting documents.

Any formal resolution process will be overseen by a Case Manager in ABC People & Culture and may include things such as a formal investigation, a case appraisal, mediation, negotiation and/or determination of appropriate outcomes. An investigation may be undertaken where it is necessary to clarify the facts or issues in dispute, or if the Chief People Officer (or delegate) determines it is necessary. Where a formal investigation is necessary an investigator will be appointed. The investigation will generally involve speaking to the person(s) about whom the grievance is raised and, where deemed appropriate, to other key people.

Where a formal process is commenced both the person lodging the grievance and the person about whom the grievance has been lodged will be advised, having regard to confidentiality, of the final outcome of the resolution process.

Before, during or after a formal process is commenced you should be aware that, depending on the issues involved and the process used to try to resolve the issue, an allegation of misconduct or serious misconduct may be raised. Misconduct includes where an employee engages in improper conduct as an employee of the ABC. If at any stage before, during or after the formal resolution process it becomes apparent to the Investigator that the allegation(s) may constitute misconduct or serious misconduct, the grievance will need to be handled in accordance with the provisions of the applicable industrial instrument. This decision will be made by the Chief People Officer (or delegate). Directly affected people will be informed of this decision and the process for dealing with the matter under the industrial instrument.

If the ABC considers it appropriate, including possibly for the safe and efficient resolution of the issue, you and/or your colleague(s) may be directed to not report to work for a period of time. The ABC may also consider providing you or your colleague(s) with alternative duties during the formal resolution process.

If an investigation is conducted as part of the formal resolution process the person(s) about whom the grievance has been raised will be advised that an Investigator will be appointed by the ABC. The Investigator will be a person who is trained and competent in workplace investigations and will usually have had no prior role in the resolution of the grievance. Generally, the Investigator will be an internal ABC People & Culture employee although an external person or firm may occasionally be engaged if warranted, and as determined by the ABC in its absolute discretion. If you have any concerns about any potential bias of the person appointed as the Investigator, you must raise your concerns to the Chief People Officer (or delegate) immediately. Depending on the outcome of any investigation, the Chief People Officer (or delegate) or any Investigator will make a determination about what action, if any, should be taken.

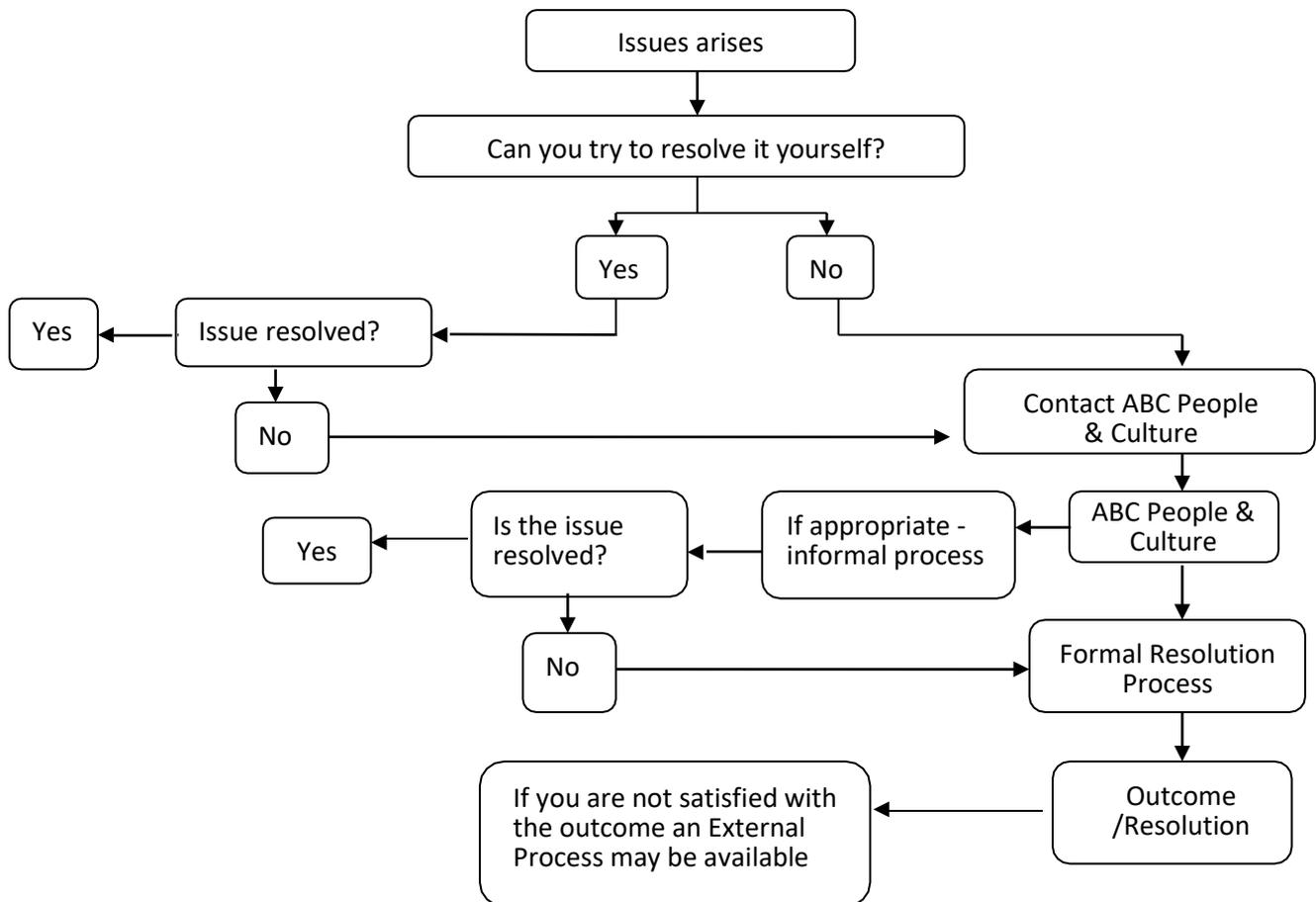
Possible outcomes of a formal resolution process may include:

- overturning or amending a decision;
- establishing a process for monitoring the agreed resolution and/or future instances of the alleged conduct or issue;
- making changes to the work environment;
- requiring an employee to attend further training in relation to bullying, harassment or discrimination or other training as appropriate; or
- termination of contracts with agents and contractors who are in breach of this policy.

## **EXTERNAL PROCESSES**

If a grievance has not been able to be resolved satisfactorily internally, an employee may be able to pursue a grievance with an external agency that has the jurisdiction to hear the grievance. Examples of these agencies include the Fair Work Commission, WorkCover, the Australian Human Rights Commission (formerly HREOC) and the State and Territory Anti-Discrimination and Equal Opportunity Commissions. A list of the relevant agencies can be found in the [External Authorities and Grounds of Discrimination](#) document on the intranet.

## ABC Workplace Complaint & Grievance Process



# ABC Workplace Complaint Form



## PART A: APPLICANT INFORMATION

<b>Name:</b>		<b>Date:</b>	
<b>Position:</b>			
<b>Division:</b>	People & Culture		
<b>State:</b>	WA		
<b>Contact No:</b>		<b>Alt Contact No.:</b>	

## PART B: INFORMATION ABOUT YOUR COMPLAINT

What is your complaint about?

- |  |  |
|--|--|
| <input type="checkbox"/> Discrimination                          | <input type="checkbox"/> Harassment                            |
| <input type="checkbox"/> Bullying                                | <input type="checkbox"/> Interpersonal conflict & difficulties |
| <input type="checkbox"/> Requests for flexible work arrangements | <input type="checkbox"/> Rostering/work hours                  |
| <input type="checkbox"/> Other                                   | <input type="checkbox"/> OH&S                                  |

Is your complaint about another person or people at work?

**If so, please identify the person, their position and how they relate to you.**  
 (For example; my grievance is about Joe Bloggs, Administrative Assistant. We work in the same team).

Please briefly describe the nature of your complaint

Please provide specific details of your complaint. If your complaint relates to a specific incident (or incidents it is useful to provide approximate dates, times and records of what was said (as far as you can recall) in the chronology below.

Date:	What happened:	Comment

## How to make a complaint in writing – Page 2

Have there been any witnesses to any of the events? If so, please list their name and contact number.

Name:

Contact No.:

Name:

Contact No.:

Name:

Contact No.:

Name:

Contact No.:

How do you feel about what happened?

What do you think would resolve your complaint? (For example, an apology or a meeting to discuss the issues)

Has this happened before?

If so, please provide details of the previous incidents.

Have you told anyone at the ABC about your complaint either formally or informally?

If so, who have you told about your complaint and what action (if any) have they taken?

Is there any other information you would like to include?

**NOTE:** If you do not have sufficient space on this form, please attach additional pages.

SAVE & EMAIL FORM

## EXTERNAL AUTHORITIES AND GROUNDS OF DISCRIMINATION

### **External Authorities with Jurisdiction to Investigate Claims of Discrimination**

- Australian Human Rights Commission (Formerly HREOC)
- ACT Human Rights Commission
- Anti-Discrimination Board of New South Wales
- Anti-Discrimination Commission of Queensland
- Anti-Discrimination Commission Tasmania
- Victorian Equal Opportunity and Human Rights Commission
- Northern Territory Anti-Discrimination Commission
- South Australia Equal Opportunity Commission
- Western Australia Equal Opportunity Commission

### **Grounds of Discrimination\***

- Race
- Sexual orientation
- Gender identity
- Intersex
- Pregnancy
- Marital Status
- Disability
- Sexual Preference
- Breastfeeding
- Carer status
- Age
- Trade Union Activity
- Relationship status
- Political conviction
- Religious conviction
- Status as a parent or carer
- Aid of an assistance animal
- Irrelevant medical record
- Physical features
- Trans-sexuality
- Profession, trade, occupation or calling
- Spent conviction
- Membership or non-membership of an association or organisation of employers or employees
- Association with a person who has an attribute listed above.

\* Note: Not all grounds of Discrimination are available in all States and Territories of Australia. You will need to refer to the relevant Federal or State Authority to identify whether or not you can lodge a complaint with them about a particular type of discrimination.

	17/10/2019	[REDACTED]	Other	Minconduct	[REDACTED]
<b>ABC FOI 201920-042 Document 5 - All redactions 47F</b>					
	24/09/2019	[REDACTED]	Other	Complaint/File note	[REDACTED]
	23/09/2019	[REDACTED]	Other	Complaint/File note	[REDACTED]
	23/09/2019	[REDACTED]	Managing underperfor...	Complaint/File note	[REDACTED]
	9/09/2019	[REDACTED]	Discrimination - other	Grievance	[REDACTED]
	21/08/2019	[REDACTED]	Managing underperfor...	Managing Performanc...	[REDACTED]
	20/08/2019	[REDACTED]	Other	Appraisal Appeal	[REDACTED]
	1/08/2019	[REDACTED]	Managing underperfor...	Managing Performanc...	[REDACTED]
	31/07/2019	[REDACTED]	Managing underperfor...	Complaint/File note	[REDACTED]
	29/07/2019	[REDACTED]	Other	Complaint/File note	[REDACTED]
	26/07/2019	[REDACTED]	Sexual Harassment	Serious Misconduct	[REDACTED]
	22/07/2019	[REDACTED]	Other	Managing Performanc...	[REDACTED]
	18/07/2019	[REDACTED]	Other	Minconduct	[REDACTED]

	24/01/2020	[Redacted]	Bullying	Grievance	[Redacted]
	18/12/2019	[Redacted]	Bullying	Grievance	[Redacted]
	18/12/2019	[Redacted]	Bullying	Grievance	[Redacted]
	9/12/2019	[Redacted]	Managing underperfor...	Managing Performanc...	[Redacted]
	4/12/2019	[Redacted]	Other	Minconduct	[Redacted]
	13/11/2019	[Redacted]	Bullying	Grievance	[Redacted]
	13/11/2019	[Redacted]	Bullying	Grievance	[Redacted]
	8/11/2019	[Redacted]	Other	Appraisal Appeal	[Redacted]
	6/11/2019	[Redacted]	Managing underperfor...	Managing Performanc...	[Redacted]
	4/11/2019	[Redacted]	Bullying	Grievance	[Redacted]
	31/10/2019	[Redacted]	Managing underperfor...	Managing Performanc...	[Redacted]
	28/10/2019	[Redacted]	Bullying	Complaint/File note	[Redacted]

From: Cinda Viranna  
Sent: Tuesday, 20 November 2018 6:07 PM  
To: Kevin McAlinden <[McAlinden.Kevin@abc.net.au](mailto:McAlinden.Kevin@abc.net.au)>  
Cc: Deanna Ireland <[Ireland.Deanna@abc.net.au](mailto:Ireland.Deanna@abc.net.au)>; Rebekah Donaldson <[Donaldson.Rebekah@abc.net.au](mailto:Donaldson.Rebekah@abc.net.au)>  
Subject: RE: Written Estimates questions on notice

Hi Kevin

A draft response is attached.

47C  
deliberative  
material

Happy to discuss.

Cinda

**1. What does formal disciplinary action entail with regard to ABC employees? What was the total number of formal disciplinary actions taken against ABC staff in 2017/2018?**

As set out in the relevant industrial instruments covering ABC employees, where an allegation of misconduct or serious misconduct is substantiated, formal disciplinary action could include (but is not limited to) the following:

- Reprimanding the employee;
- Issuing a written warning;
- Transferring the employee to another position at an equal or lower salary;
- Withholding the employee's salary for part or all of a paid suspension period;
- Reducing the employee's salary within the banded range for their role;
- Dismissing the employee with notice; and
- Dismissing the employee without notice.

The total number of formal disciplinary actions taken by the ABC with regard to its employees in 2017 and 2018 at the ABC were 16.

**2. How many ABC staff in 2017/2018 were investigated following complaints received in relation to alleged breaches of:**

- The ABC's social media policy
- The ABC's code of conduct and standards
- Editorial breaches
- Sexual misconduct

- **Alcohol or drug misuse**
- **Theft**

All complaints raised are dealt with in accordance with relevant industrial instruments and ABC's internal policies. In some instances, matters are dealt with through a formal investigation and an independent investigator is appointed. In other matters, allegations are put to employees in writing and they are given an opportunity to respond.

In 2017-2018, there were 10 formal investigations which required the appointment of an independent investigator and one of these matters is still ongoing.

In relation to the categories to which allegations in these 10 matters related, the categories that you have provided do not correspond to the internal classifications used pursuant to our industrial agreements, internal policies and guidelines and relevant legislation that applies to the ABC. We can confirm that the 10 matters which were the subject of formal investigation fell into the following categories and these categories correspond as closely as possible to the categories you have requested:

- 7 involved alleged breaches of the ABC Values and Standards of Workplace Behaviour;
- 9 involved alleged breaches to other ABC policies;
- 1 involved alleged breaches to the ABC Editorial Policy;

**3. What is the ratio of 'junior' ABC staff to 'senior' who have been investigated for alleged breaches?**

We do not have definitions relating to "junior" and "senior" staff under the ABC industrial instruments, relevant legislation or our internal policies. However, we can provide the following breakdown in terms of employees covered by the Agreement and executives employees:

- 8 formal investigations were undertaken in relation to allegations against employees covered by the ABC Enterprise Agreement 2013 – 2016 (the Agreement) (1 of these is ongoing); and
- 2 formal investigations were undertaken in relation to allegations against executive employees not covered by the Agreement.

**4. How many ABC staff in 2017/2018 have been formally disciplined following breaches of the below and what was the basis of each breach and what was the nature of the disciplinary action taken, in relation to:**

- **The ABC's social media policy**
- **The ABC's code of conduct and standards**
- **Editorial breaches**
- **Sexual misconduct – sexual harassment or other inappropriate behaviour of this nature**
- **Alcohol or drug misuse**

- **Theft**

As set out in our response to question 1 above, the total number of formal disciplinary actions taken by the ABC with regard to its employees in 2017 and 2018 at the ABC were 16.

Of these 16 matters, we can confirm that the basis of the breaches fell into the following categories that correspond as accurately as possible to the categories you have described above:

- 14 of them involved a breach to the ABC Values and Standards of Workplace Behaviour;
- 5 involved breaches to other ABC policies;
- 1 involved a breach to the ABC Editorial Policy; and

The nature of the disciplinary action taken in these 16 matters is as follows:

- 14 involved a written warning;
- 1 involved a reprimand
- 1 involved a change in reporting lines; and
- 1 involved removal from a substantive role.

**5. What is the ratio of ‘junior’ ABC staff to ‘senior’ who have been formally disciplined?**

As mentioned in our response to question 3 above, there are no definitions for “junior” and “senior” staff at the ABC however, we can provide the following breakdown in terms of employees covered by the Agreement and executives employees:

- 13 employees were formally disciplined who were covered by the Agreement;
- 2 Executives not covered by the Agreement were formally disciplined; and
- 1 employee was locally engaged overseas

**6. How many ABC staff in 2017/2018 have been terminated and what was the basis of each complaint for breaches of:**

- **The ABC’s social media policy**
- **The ABC’s code of conduct and standards**
- **Editorial breaches**
- **Sexual misconduct**
- **Alcohol or drug misuse**
- **Theft**

No employees were terminated in 2017 or 2018 for breaches of the matters listed above or as a result of any formal disciplinary matter.

**7. What is the ratio of ‘junior’ ABC staff to ‘senior’ who have been terminated?**

N/A – none terminated.

**8. Please provide a detailed breakdown of ABC staff by state, and by ABC broadcasting region. This should include total employees by state and by ABC region, as well as a general description of the employee's job role.**

See attachment.

**From:** Kevin McAlinden  
**Sent:** Friday, 2 November 2018 8:44 PM  
**To:** Rebekah Donaldson <[Donaldson.Rebekah@abc.net.au](mailto:Donaldson.Rebekah@abc.net.au)>  
**Subject:** Written Estimates questions on notice

Hi Beck,

Just received these questions – all from Senator James McGrath. Estimates questions will need to be finalised by Monday, 12 November but happy to discuss early next week, in particular whether we can answer the junior/senior question. Can always say not possible.

Thanks,

Kevin

1. What does formal disciplinary action entail with regard to ABC employees? What was the total number of formal disciplinary actions taken against ABC staff in 2017/2018?
2. How many ABC staff in 2017/2018 were investigated following complaints received in relation to alleged breaches of:
  - a) The ABC's social media policy
  - b) The ABC's code of conduct and standards
  - c) Editorial breaches
  - d) Sexual misconduct
  - e) Alcohol or drug misuse
  - f) Theft
3. What is the ratio of 'junior' ABC staff to 'senior' who have been investigated for alleged breaches?
4. How many ABC staff in 2017/2018 have been formally disciplined following breaches of the below and what was the basis of each breach and what was the nature of the disciplinary action taken, in relation to:
  - a) The ABC's social media policy
  - b) The ABC's code of conduct and standards
  - c) Editorial breaches
  - d) Sexual misconduct
  - e) Alcohol or drug misuse
  - f) Theft
5. What is the ratio of 'junior' ABC staff to 'senior' who have been formally disciplined?

6. How many ABC staff in 2017/2018 have been terminated and what was the basis of each complaint for breaches of:
  - a) The ABC's social media policy
  - b) The ABC's code of conduct and standards
  - c) Editorial breaches
  - d) Sexual misconduct
  - e) Alcohol or drug misuse
  - f) Theft
7. What is the ratio of 'junior' ABC staff to 'senior' who have been terminated?
8. Please provide a detailed breakdown of ABC staff by state, and by ABC broadcasting region. This should include total employees by state and by ABC region, as well as a general description of the employee's job role.

Out of scope of request

