

Challenger Limited

Discrimination and Harassment Policy

| | |
|--------------------------|----------------------------|
| This version: | Version 3.0 |
| Jurisdiction: | All |
| Date of Version: | February 2020 |
| Review of Policy Due by: | February 2022 |
| Policy Owners: | Human Resources |
| Prepared By: | GM Human Resources |
| Authorised By: | Group Risk Committee (GRC) |

Summary

Why is this Policy required?

This policy helps Challenger maintain a workplace which is free from unlawful discrimination and unlawful harassment and where individuals are treated with respect and courtesy.

Who does this Policy apply to?

Any person that carries out work in any capacity for Challenger, and includes: permanent and maximum term employees, contractors and sub-contractors (and each of their employees), employees of a labour hire company, trainees, students gaining work experience and volunteers and applies to behaviour:

- (a) in the workplace, including when working outside normal working hours;
- (b) while undertaking work activities including, interaction with third parties and while working away from Challenger's premises;
- (c) at work-related events, e.g. conferences and social functions; and
- (d) outside of work hours, if that interaction involves other Workers, including where interaction is through social media.

Challenger and everyone in the workplace has a duty, and can help to ensure, that unlawful discrimination and unlawful harassment does not occur. Legal claims can be separately taken against Workers themselves in relation to unlawful discrimination and unlawful harassment.

Relevant Australian legislation

. Unlawful discrimination and unlawful harassment are legislated through various acts in the Australian legal system both at the Federal and State level.

Key Terms

- Challenger** Challenger Limited and its related bodies corporate incorporated within the Commonwealth of Australia.
- Workplace** Premises, or any other place, where Employees perform work on behalf of Challenger including any land, building or vehicle.

Review Cycle

This Policy will be reviewed biennially, or as required if there are material changes in either the regulatory framework or business activities.

1. Objectives

The purpose of this policy is to make you aware of:

- (a) what 'unlawful discrimination' and 'unlawful harassment' in the workplace mean;
- (b) the procedures Challenger Limited, and its related entities (Challenger), has in place to hear and resolve workplace grievances relating to unlawful discrimination and harassment; and
- (c) who you can talk to at Challenger if you wish to raise a grievance about discrimination or harassment.

2. Scope

This Policy applies to all legal entities, business divisions, support units of Challenger irrespective of geographical location and covers any person who carries out work for Challenger (employees, contractors, subcontractors, employees of labour hire companies, trainees, students on work experience and volunteers).

3. References

Supporting procedural information is referenced within this policy; the Whistleblower policy, which is available on Connect, is to be used in accordance with the policy as indicated.

4. What is unlawful discrimination?

4.1 Defining unlawful discrimination

Discrimination is treating one person or group less favourably than another or causing them disadvantage. *Unlawful discrimination* is discrimination which law has defined as unacceptable.

Federal and State laws make discrimination unlawful on a variety of grounds (**unlawful reasons**) including:

- (a) sex, pregnancy, breastfeeding or family responsibilities;
- (b) sexual orientation, gender identity or intersex status, marital or relationship status;
- (c) race, colour, descent, nationality, national origin, ethnicity or ethno-religious origin;
- (d) religious belief or activity;
- (e) political belief or activity;
- (f) trade union activity;
- (g) disability or impairment;
- (h) physical features;
- (i) age;
- (j) responsibilities as a carer; or
- (k) service in the voluntary defence forces.

Whether it is unlawful to discriminate against a person for one of these reasons will depend on the particular circumstances and the relevant State law which applies to you.

4.2 How can unlawful discrimination occur?

Discrimination can occur in the recruitment process, during the course of employment or on termination of employment. Discrimination can also occur in the provision of goods or services. Employees should not discriminate against co-workers or clients.

Discrimination can be direct or indirect.

Direct discrimination occurs where someone is treated less favourably because of their sex, age, racial group etc. An example of direct discrimination is when an employee misses out on an internal promotion because they are considered too old for the job.

Indirect discrimination occurs where everyone is treated on the same terms according to a rule, policy or directive but which has the effect of being less favourable to people of a particular sex, age group, race, religion etc. and which is not reasonable in all the circumstances. An example of indirect discrimination would be a security company that has minimum height and weight restrictions for its employees – this may exclude a large proportion of women and/or people of Asian origin. There are exceptions to anti-discrimination law which may apply in some situations – for example, because of the requirements of a particular job.

5. What is unlawful harassment?

5.1 Defining unlawful harassment

Unlawful harassment is a type of unlawful discrimination. In general, unlawful harassment is any form of conduct or behaviour which affects a person that:

- (a) is unwelcome (not wanted) or uninvited (not asked for);
- (b) is based on one of the unlawful reasons; and
- (c) is behaviour that a reasonable person would have anticipated might humiliate, offend or intimidate the person being harassed.

5.2 What are the types of unlawful harassment?

Types of unlawful harassment include, but are not limited to:

- (a) sexual harassment;
- (b) verbal abuse or comments that degrade or stereotype people because of their race, sex, sexual orientation, pregnancy, disability, etc.;
- (c) jokes based on race, sex, sexual orientation, pregnancy, disability etc.;
- (d) mimicking someone's accent, or the habits of someone with a disability;
- (e) offensive gestures based on race, sex, sexual orientation, pregnancy, disability, etc.;
- (f) bullying a person because of their race, sex, sexual orientation, pregnancy, disability, etc.;
- (g) ignoring or isolating a person or group because of their race, sex, sexual orientation, pregnancy, disability, etc.; or
- (h) display or circulation of racist, pornographic or other offensive material (including in electronic format).

Harassment might not be unlawful, if it is not based on one of the unlawful reasons. However, Challenger expects its employees to treat each other, and other people with whom they come into contact as representatives of Challenger, with respect and courtesy.

In some cases a single action or incident can create unlawful harassment. In other cases there may need to be a persistent pattern of behaviour before unlawful harassment has occurred.

5.3 What is unlawful sexual harassment?

Unlawful sexual harassment is one form of illegal harassment. A person sexually harasses another person if:

- (a) the person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person;
- (a) engages in other unwelcome conduct of a sexual nature in relation to the person; or
- (b) in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person exposed to the conduct would be offended, humiliated or intimidated.

Conduct which may constitute unlawful sexual harassment includes, but is not limited to:

- (a) pressure or demands for dates or sexual favours;
- (b) unnecessary familiarity - for example, deliberately brushing against a person or constantly staring at a person;
- (c) unwanted physical contact - for example, touching or fondling;
- (d) sexual jokes or innuendo;
- (e) offensive telephone calls;
- (f) offensive sexual gestures;
- (g) unwelcome comments or questions about a person's sex life;
- (h) display, circulation of sexual material, including magazines, posters or pictures (including in electronic format);
- (i) sending email or text messages which contain sexual content or tone; or
- (j) sexual assault.

Some of these forms of unlawful sexual harassment are also criminal behaviour and may be treated as a criminal offence.

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.

However, you should take great care before engaging in conduct you believe to be welcome. 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 because they are 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. Similarly, it is your responsibility to tell someone if you do not feel comfortable with their behaviour, or at least to raise the issue with your Manager or Human Resources Business Partner.

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 Human Resources Business Partner.

Further, any personal friendships that develop should not adversely impact on your ability to do your work or on the performance or productivity of your co-workers.

6. What are your obligations?

Everyone at Challenger has the legal obligation not to discriminate or harass (for any unlawful reason) any employee, agent, contract worker, contractor, supplier or visitor.

You must always consider how your behaviour will be viewed by the person or people you are dealing with. You might unlawfully harass someone or otherwise unlawfully discriminate against someone even if you do not mean to do or say anything offensive. It is not a legally acceptable defence to say that you did not mean to humiliate, offend or intimidate somebody else.

It is sometimes difficult to know whether someone will find your behaviour acceptable. What is offensive to one person may not be offensive to another. You should be careful not to risk being misunderstood and, as a result, becoming the subject of a grievance.

7. Victimisation

You must not victimise a person because they have made or propose to make an unlawful discrimination or harassment grievance or because they have provided information in relation to a grievance. Victimisation means subjecting a person to a detriment, for example, ostracising an employee.

8. What can you do if you believe you are being unlawfully harassed or discriminated against?

If you feel that you are being unlawfully harassed or discriminated against, there is action which you can take that may resolve the problem. You should not ignore circumstances where you feel you are being unlawfully discriminated against or harassed, thinking it will go away. Ignoring the behaviour could be taken as silent approval by the person causing the unlawful harassment or discrimination. Instead:

- (a) If you feel comfortable to do this, ask the person to stop, or make it clear that you find the behaviour offensive, unwelcome or inappropriate. Maybe the alleged discriminator/harasser is not aware that his/her behaviour is intimidating or unwelcome and will stop once you say so. It may be useful to speak with your Manager or Human Resources Business Partner to seek guidance on how to do this; and/or
- (b) Raise the issue as a grievance with either your Manager or Human Resources Business Partner, in accordance with section 9 of this policy, as soon as possible after the incident(s) have occurred.

You also have the option of raising a concern via the Challenger Whistleblower process, which is on Connect. If you raise the issue anonymously please be aware that Challenger may be limited in its ability to properly investigate / resolve the complaint unless sufficient details about the matter are provided. As a result, it may be necessary for Challenger to seek further information from you in connection with your grievance (which we may do in a confidential manner through the Whistleblower facility).

If you feel that you are being victimised because you have made, or propose to raise a grievance, or because you have provided information in relation to a grievance, you should raise the issue as soon as possible with either your Manager or Human Resources Business Partner.

If your issue is about your Manager or Human Resources Business Partner, then you should raise it with the General Manager, Human Resources.

Although you may feel the need to tell a trusted friend or work colleague about the matter, you should be careful. Accusations of unlawful discrimination and harassment can harm the reputation of those involved and could lead to legal action for defamation. Do not allow rumours to spread.

Other helpful contacts

If you experience or witness behaviours that could be considered discrimination or harassment and you find these matters distressing, you may seek counselling through Challenger's Employee Assistance Program on 1800 808 374.

If a Manager observes unlawful discrimination or harassment or suspects an employee is being unlawfully discriminated or harassed they should raise the observation with their Human Resources Business Partner. However, if a manager needs assistance in managing workplace conflict to prevent an instance of unlawful discrimination or harassment they can contact their Human Resources Business Partner or the Manager Assistance Program, an offering of the Employee Assistance Program on 1800 505 015.

9. Raising a grievance and your responsibilities?

If you have a grievance and would like assistance with resolving it, you should:

- (a) in the first instance, raise it with your Manager;
- (b) if it is not appropriate to raise the grievance with your Manager, or if the matter cannot be resolved with your Manager, please raise it with your Human Resources Business Partner;
- (c) if the matter relates to a senior member of management, and you do not feel comfortable raising it with the people referred to above, please raise it with the General Manager, Human Resources; or

- (d) if you do not feel you can raise the issues with any of the people referred to above, you may raise the grievance via the Whistleblower process. However, this may limit Challenger's ability to properly deal with your grievance.

If you do raise a grievance you are responsible for ensuring that you:

- (a) raise the grievance honestly and in good faith;
- (b) provide all facts relevant to the grievance – both at the outset and during any investigation; and
- (c) co-operate with the investigation / resolution process.

Challenger may not be able to assist you to deal with a grievance if, among other things:

- (a) the grievance has been satisfactorily dealt with or resolved previously (unless another alleged incident has occurred since);
- (b) the grievance is raised anonymously (whether with a Manager or Human Resources Business Partner or via the Challenger Whistleblower process) without sufficient detail being provided to allow proper investigation or resolution of the matter; or
- (c) the grievance is frivolous, vexatious or malicious - for example where false or misleading information is provided, relevant information is withheld, facts are distorted or there is no demonstrated commitment to resolution (depending on circumstances, these types of grievances could lead to disciplinary action, including dismissal, being taken against the person raising the grievance).

10. What will happen if a grievance is raised about you?

If a grievance has been raised about you, you are responsible for ensuring that you:

- (a) cooperate with the investigation/resolution process;
- (b) provide a written or verbal response to the grievance which has been raised, as requested; and
- (c) provide all relevant facts to the person dealing with the grievance.

11. What will Challenger do if you have a grievance?

Grievances about unlawful harassment and discrimination will be treated seriously.

As each grievance will differ, Challenger will determine the most appropriate method of dealing with the complaint. This may vary depending on the nature of the specific complaint and a number of other factors. For example, following receipt of a complaint, Challenger may take the following steps:

- (a) determine the best method of handling the complaint (which may include a number of possibilities including informal or facilitated discussions, mediation or an internal or external investigation);
- (b) advise you of the likely steps that will be undertaken by Challenger in relation to the complaint (including anticipated time frames);
- (c) advise the person(s) who the complaint is about of the existence of the complaint, the nature of the complaint and seek their response;
- (d) collect any additional information Challenger considers necessary to properly review the complaint which may include interviewing of relevant witnesses;
- (e) advise you and the person(s) that the complaint is about, who will be making the inquiries on behalf of Challenger and who will determine the outcome of the inquiries; and
- (f) in some cases, appoint an external party to make inquiries in relation to, or to investigate, the complaint
- (g) provide relevant updates throughout the course of the investigation to the complainant and advise them when a resolution has been reached.
- (h) If a complainant or the person (s) that the complaint is about, is unsatisfied with the outcome of their grievance they can appeal the decision to the General Manager, Human Resources

Challenger will take whatever action it considers appropriate if there has been unlawful discrimination or unlawful harassment, which may include a range of disciplinary outcomes up to and including dismissal.

If you have any queries about using this grievance process, you should contact your Manager or Human Resources Business Partner.

12. Contact person

If you have any questions regarding this policy, your obligations or the grievance process outlined above, we encourage you to contact your Human Resources Business Partner.

13. General

This policy summarises some of the rights and obligations which are created by the legislation and is not intended to go beyond the legislation. This policy is not a term of any contract, including any contract of employment and does not impose any contractual duties, implied or otherwise, on Challenger. This policy may be varied from time to time.

For further information about harassment or discrimination, please contact your Manager or Human Resources Business Partner.