



Definitions of non-compliant behaviour

All public sector employees have a right to feel safe and respected at work. It is everyone's responsibility to treat others with respect and address inappropriate behaviour.

What is inappropriate or unlawful behaviour?

Inappropriate behaviour is any behaviour that does not comply with the expectations set out in your employment framework. They include bullying, harassment, discrimination and victimisation.

The terms can overlap each other and might be confusing. Below are the definitions used at the Integrity Commission.

Bullying

Bullying means less favourable treatment of a person by another. The treatment intimidates, offends, degrades or humiliates another person. Bullying can be:

- ▼ repetitive or a one-off act of abuse
- ▼ behaviour that occurs in private or in front of others
- ▼ quite subtle – it may not be immediately apparent, or
- ▼ a form of abusive treatment based on creating fear.

Bullying behaviour may happen because the bully wants to achieve control of others and compliance with their wishes.

Harassment

Harassment means behaviour that causes a person or a group of people to feel offended, humiliated, isolated, intimidated, insulted or ridiculed. Harassment can be behaviour that is:

- ▼ unwelcome and uninvited
- ▼ unreciprocated, or
- ▼ often repeated.

For harassment to occur, there does not have to be an intention to offend or harass. It is not the intent of the act but the outcome or how the recipient felt that counts.

Harassment may include bullying.

Discrimination

Under the [Tasmanian Anti-Discrimination Act 1998](#)¹, it is discrimination when a person is treated less favourably (worse) than other people because they have a particular characteristic, such as their age, race, sex or disability. It is also discrimination when a person is disadvantaged compared to other people because they have a particular characteristic.

Discrimination can be direct or indirect:

- ▼ Direct discrimination means behaviour that causes a person to be treated less favourably because of protected traits. Section 16 of the *Anti-Discrimination Act 1998* covers discrimination.
- ▼ Indirect discrimination means behaviour that imposes a condition, requirement, or practice on a person that is unreasonable in the circumstances and has the effect of disadvantaging that person or group.

Indirect discrimination includes treating an individual or a group as if they were the same as everyone else, although they are different.

Discrimination may be unintentional and may occur as an isolated incident or as a series of incidents. It may not be the intention of the action to be discriminatory, but the outcome may well be.



CASE STUDY

A complainant with a mental illness alleged they were bullied and discriminated against in the workplace due to their illness.

The complainant alleged that the employer doubted their capacity to work due to their illness. The employer also required them to provide irrelevant medical records and engaged in conduct that was humiliating and insulting.

The result of conciliation by Equal Opportunities Tasmania was to award the complainant \$20,000 and a statement of service.

Extracted from an Equal Opportunities Tasmania case study

<https://equalopportunity.tas.gov.au/complaints/complaint-case-studies>

Victimisation

Victimisation is when a person subjects or threatens to subject another person (or an associate of that other person) to any detriment, harm or disadvantage. Examples of this type of behaviour may include giving a person a hard time because:

- ▼ they have made, or intend to make, a complaint about a person or issue
- ▼ they have alleged, or intend to allege, that a person has committed an act that amounts to non-compliant behaviour, or
- ▼ they have refused, or intend to refuse, to do anything that would amount to non-compliant behaviour.

Victimisation may include bullying.



CASE STUDY

A complainant alleged that she was sexually harassed in the workplace during a work function, and was subject to discrimination and other prohibited conduct, for example, asked if she wanted to have sex.

She also alleged that her husband was victimised for supporting her by making a complaint about the alleged sexual harassment.

The result of conciliation by Equal Opportunities Tasmania was to award the complainant \$20,000 and to ensure the organisation provide anti-discrimination training to its staff.

Extracted from an Equal Opportunities Tasmania case study

<https://equalopportunity.tas.gov.au/complaints/complaint-case-studies>

Grievance

A grievance is a report of alleged inappropriate behaviour in the workplace and may be about any aspect of a person's employment.

A grievance usually represents low-level conflict between parties and ideally is resolved to the satisfaction of those parties before it becomes a significant issue. Inappropriate behaviour could arise from:

- ▼ interpersonal conflict in the workplace
- ▼ assigned duties or working conditions
- ▼ the way work is allocated or managed
- ▼ access to training or career development

- ▼ management action/s or decisions, or
- ▼ the interpretation or application of people management policies

Is non-compliant behaviour misconduct?

Bullying, harassment, discrimination and victimisation are likely to violate your organisation's Code of Conduct and may be misconduct.

It may also be an offence under the *Anti-Discrimination Act 1998*, specifically for sexual harassment or bullying based on discrimination. If the bullying was physical, it could be an offence under the *Criminal Code 1924*.

It is important to remember that bullying, harassment, discrimination and victimisation are not always obvious or overt; they can be subtle and difficult to detect. All grievances or suspicions of such behaviour must be treated seriously.

Likewise, if you are the victim of non-compliant behaviour, you must report it. Your manager and organisation can then deal with it appropriately and promptly.

How to prevent non-compliant behaviour

Before interacting with anyone at work, ask yourself:

Could my words or actions make another person feel uncomfortable, unsafe or disrespected in this situation?

If you answer 'yes' to this question, you may be bullying or harassing a fellow employee.

If you feel uncertain, seek advice from your supervisor about appropriately interacting with fellow employees.

¹ <https://equalopportunity.tas.gov.au/discrimination>



The Commission can help

We are available to provide support and assistance with identifying, reporting, investigating, managing and preventing misconduct: prevention@integrity.tas.gov.au or 1300 720 289.

For more Misconduct Prevention resources go to www.integrity.tas.gov.au/resources.