

Policy:	Anti-Bullying Policy
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Authorised by:	CEO
Location:	HR Manual

Philosophy:

The Modern Star Group (“Modern Star” or “the Company”) is committed to ensuring that the working environment is free from unlawful discrimination and harassment across all business locations.

This policy ensures compliance with the Australian and New Zealand’s workplace legislative framework covering work, health & safety, employment, human rights and discrimination, such as, but not limited to Australian state and federal human rights and anti-discrimination legislation, *the Fair Work Act 2009, and Fair Work Amendment Acts, Australia and the Employee Relations Act 2000 and Amendment Acts, Human Rights Act 1993 and Harassment Act 1997, New Zealand, as well as Australia’s model Work, Health & Safety (WHS) Act 2011 and Regulations and New Zealand’s Health and Safety at Work Act 2015 (HSWA) and Regulations.*

However, the Australian and New Zealand workplace legislative framework incorporates elements of global best practice that can be applied to locations internationally, such as Singapore and Hong Kong in conjunction with local, relevant legislation.

Modern Star aims to ensure all those participating in the workplace are treated with respect, dignity and fairness with an aim of creating an environment which promotes positive working relationships.

This policy and procedure sets out the types of behaviours and conduct which will be taken to constitute bullying under Australian and New Zealand legislation and establishes procedures for handling complaints of bullying in the workplace across countries Modern Star operates. Under Singapore and Hong Kong, local, relevant employment, anti- discrimination and harassment legislation (as per Appendix Singapore and Hong Kong Legislation), ‘Bullying’ is grouped with ‘Harassment’ behaviour. Some aspects of the Australian and New Zealand definition are incorporated. However, in the absence of a clear definition of bullying, Australia and New Zealand’s definition should be viewed as the best practice standard and used in conjunction with local legislation.

**Scope:**

This policy and procedure applies to employees, consultants, contractors (temporary or otherwise), work experience students and agents of Modern Star across all locations, including but not limited to offices, shops, warehouses, factories. For the purpose of this policy the term 'representative' will refer collectively to contractors, consultants and agents.

This policy and procedure is not limited to the workplace or working hours and will include all work - related events which includes, but is not limited to; lunches, client functions, meetings and conferences, business travel as well as Christmas parties.

This policy also relates to, but is not limited by the following types of communication:

- Verbal communication either over the telephone or in person in the workplace, and outside of the workplace;
- Written communication including; letters, notes, minutes of meetings etc.
- Internal and external electronic communication (e.g. cyber-bullying) including:
 - Email;
 - Instant messaging services;
 - Internal intranet;
 - Faxes;
 - Social media and networking forums including; Facebook, LinkedIn, Twitter and other forms of social media; and
 - Communications via text message.

Note: this list is not exhaustive.

Workplace bullying can be directed at a single worker or group of workers and can be carried out by one or more workers and at all levels of a business. It can also be directed at or perpetrated by other people at the workplace, for example clients, customers and members of the public.

Policy Statement:

The Modern Star Group acts on its legal obligations and duty of care as an employer to provide a healthy and safe workplace and safe systems of work. This extends to the physical and psychological well-being of all workers and as with any other workplace hazard Modern Star will take reasonable steps to control workplace bullying.

To fulfil these obligations Modern Star will;

- Commit resources (such as training, policy development) to the prevention and management of unacceptable behaviours at work such as workplace bullying;
- Develop, maintain and continuously improve a risk management system in relation to workplace bullying as part of Modern Star's overall WHS safety system;
- Obtain commitment from senior management and consult with workers about the development of prevention policies and procedures in relation to workplace bullying;



- Promote awareness through the provision of training, instruction and information (e.g. discussion, meetings and supervision);
- Provide an effective procedure for complaints based on the principles of natural justice;
- Provide support and advice to all relevant parties as required using internal and/or external services; and
- Treat all parties involved in any complaint with sensitivity, respect and courtesy.

Any reported allegations of bullying will be treated seriously and in confidence, dealt with promptly, thoroughly and fairly. Where confidentiality cannot be guaranteed this will be clearly indicated to the complainant.

Any person who aids, abets or encourages other persons to engage in bullying may also be held liable and complaints made maliciously by employees or in bad faith will result in disciplinary action.

Victimisation or unfair treatment of any person making a complaint will not be tolerated.

Definitions:

Victimisation

A broad definition of victimisation is when a person acts or omits to act towards a person in a way which is intended to cause disadvantage to that person because they have made a complaint, or may make a complaint, or maybe or are the subject of a complaint.

For Hong Kong and Singapore local, relevant legislation should be referred to. However, the broad definition above can be referred to as best practice.

Australia and New Zealand define further:

Australia- Victimisation is subjecting or threatening to subject a person to some form of detriment because they have;

- Lodged, or are proposing to lodge, a complaint of discrimination or harassment;
- Helped someone else make a complaint;
- Provided information or documents as part of an internal or external investigation; or
- Refused to do something because it would be discrimination, sexual harassment or victimisation

Victimisation is unlawful under state and federal anti-discrimination and equal opportunity laws. It can also be a criminal offence.

New Zealand- Victimisation can arise as part of, or as a result of, an experience of harassment or discrimination. It includes treating people (or threatening to treat people) less favourably than they otherwise would have been because they have made use of their rights to complain about harassment or

discrimination or intend to make use of their rights; or because the person has given evidence or information in an investigation of a complaint.

The *Human Rights Act 1993*, New Zealand protects people from being victimised because they contacted the Human Rights Commission about harassment, were involved in a dispute or supported another person to make a complaint. In addition, it prohibits victimisation of people for making of a disclosure under the *Protected Disclosures Act 2000*.

What is Bullying Behaviour?

The definition under Australian and New Zealand legislation is that bullying occurs when:

- A person or a group of people repeatedly behave unreasonably towards a worker at work; AND
- The behaviour creates a risk to health and safety.

Repeatedly refers to the persistent nature of the behaviour (occurs more than once) and can involve a range of behaviours over time.

Unreasonably means behaviour that a reasonable person, in the same circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.

Risk to health and safety includes the risk to the emotional, mental or physical health of the person(s) in the workplace.

Bullying behaviours

Bullying can be physical, verbal or relational/ social. Examples of behaviour, whether intentional or unintentional, that may be considered to be workplace bullying if they are **repeated, unreasonable** and **create a risk to health and safety** include but are not limited to:

- Physical or verbal abuse;
- Yelling, screaming or offensive language;
- Excluding or isolating team members;
- Psychological harassment;
- Intimidation;
- Assigning meaningless tasks unrelated to the job;
- Giving team members impossible jobs;
- Deliberately changing work rosters to inconvenience particular team members;
- Undermining work performance by deliberately withholding information vital for effective work performance;
- Constant criticism of work;
- Offensive, threatening or intimidating internal and external electronic communication (e.g. cyber-bullying) including:
 - Sending offensive text messages or emails;
 - Posting unwanted pictures or messages on social media;



- Spreading rumours or gossip about someone online;
- Humiliating someone in an online chat/ video conference that includes multiple people.

Bullying that is violent or threatening may be a criminal offence and should be dealt with as a police matter.

Bullying or discrimination

Discrimination generally occurs when someone is treated less favourably than others because they have a particular characteristic like their race, religion, sex or belong to a particular group of people. Bullying happens when someone in the workplace repeatedly behaves unreasonably towards another person or group of people and causes a risk to health and safety in the workplace. Bullying behaviour can be but doesn't have to be related to the person or group's characteristics (race, religion, sex, etc). Please refer to the Company's EEO, Anti-Discrimination and Harassment Policy for information regarding other unreasonable behaviours outside bullying and guidance on approach, or discuss with your direct manager/ HR.

What is not bullying behaviour?

- One off instances of insensitivity or rudeness;
- Differences in opinion or personality clashes that do not escalate to bullying; or
- Reasonable management action carried out in a reasonable manner.

Reasonable management action may include for example:

- Performance management processes e.g. setting high performance standards, constructive feedback and legitimate advice or peer review;
- Directing a worker to perform duties in keeping with their job via reasonable verbal or written work instructions;
- Maintaining reasonable workplace goals and standards;
- Informing a worker about unsatisfactory work performance or inappropriate work behaviour; or
- Conducting disciplinary action for misconduct.

However, any reasonable management actions must be conducted in a reasonable manner. If not, it could still be bullying behaviour.

Responsibilities:

Employees/ Contractors/ Consultants/ Agents

Everyone at the Modern Star workplace has a work health and safety duty and can help to ensure workplace bullying does not occur. Under Australian and New Zealand Work Health and Safety legislation workers must take reasonable care that their behaviour does not adversely affect the health and safety of others.



Employees/ contractors/ consultants and agents must typically comply, so far as is reasonably practicable, with any reasonable instruction given by the person conducting the business or undertaking and co-operate with any reasonable policies and procedures, such as a workplace bullying policy.

Accordingly, all employees and representatives covered by this policy must;

- Ensure that they do not engage in any bullying behaviour(s) towards others in, or connected with the workplace, including work colleagues, clients, customers, suppliers and other business partners customer or members of the public;
- Be polite and courteous to others;
- Be respectful of the differences between people and their circumstances;
- Not assist, or encourage others in the workplace, or in connection with the workplace to engage in bullying behaviour(s) of any type;
- Adhere to the complaint procedure in this policy if they experience any bullying behaviour(s) personally;
- Report any bullying behaviour(s) they see happening to others in the workplace, or connected with the workplace in line with the complaint procedure in this policy;
- Keep information confidential if involved in any investigation of bullying; and
- Model professional, appropriate behaviour.

Managers must also:

- Develop and encourage an environment and culture which discourages bullying;
- Provide ongoing support and guidance to management, employees and representatives in relation to the prevention of bullying;
- Ensure that employees and representatives understand this policy and related policies and the consequences of non-compliance;
- If harassment or bullying is observed, they should take steps to stop it and warn the person of the consequences if the behaviour continues; and
- Treat all complaints raised by team members in accordance with the relevant Complaint/ Grievance Policy.

Application

As with all Modern Star Policies and Procedures, this policy must be complied with. However, it is not incorporated into an employee's contract of employment and may be amended from time to time.

Dispute Resolution Procedures

Anyone covered by this policy that believes they are the subject of bullying should take firm, positive and prompt action following the procedure below.

Anyone who witnesses unreasonable behaviour should bring the matter to the attention of their direct manager or HR as a matter of urgency.



Victimisation of any person making a bullying complaint or helping to resolve one will not be tolerated. Complaints made maliciously, vexatiously or in bad faith by employees will result in disciplinary action.

Bullying that directly inflicts physical pain, harm, or humiliation may constitute criminal conduct and should be reportedly directed to the police. Managers/ HR can advise of this option. However, it is not the obligation or duty of Modern Star to report such matters to the police, unless the behaviour constitutes a criminal act.

Amicable Resolution

In the first instance, the aggrieved person should, wherever practical and if they feel comfortable doing so, attempt to amicably resolve the matter with the alleged bully/bullies. The aggrieved person should make the perceived bully (or bullies) aware that they find their behaviour offensive, unwelcome and unacceptable, and that it needs to stop immediately. This is not a compulsory part of the complaint procedure, and if the aggrieved person does not wish to confront the person/s directly, then this is not encouraged.

Reporting Bullying

If the behaviour continues, or if the person feels unable to speak to the person/s directly, they should contact their direct manager, Group HR Manager or any other Manager with whom they feel comfortable. The Manager will provide support and ascertain the nature of the complaint and the wishes of the complainant.

The informal procedure is intended to be used for less serious allegations of bullying and instances that usually do not warrant disciplinary action. However, complaints can be escalated to a formal complaint if deemed necessary after discussion with the Manager/Group HR Manager.

Informal Complaints Procedure

1. The Manager/HR will explain the aggrieved person's responsibilities under Modern Star policy and procedures;
2. The Manager will determine how the alleged behaviour should be treated and the relevant policy and procedure. This might include reference to the Grievance Policy and Procedure instead, if the alleged behaviour does not constitute 'bullying';
3. Different options for handling informal bullying complaints include, but are not limited to;
 - The Manager/HR having a conversation with the alleged bully/bullies about the behaviour complained of; and
 - The Manager/HR having a meeting with the individuals concerned in an attempt to reach a resolution.



This procedure will be complete when the alleged bully/ bullies respects the individual's request to cease unwanted and unwelcome behaviour, or when the complainant accepts that the behaviour is not properly described as bullying. If neither of these outcomes occurs, then Modern Star's formal procedure should be followed.

Formal Complaints Procedure

(a) Written complaint lodged

Where an individual wishes to lodge a formal complaint, they will be required to do so by communicating this in writing to Group HR Manager or CFO. A written complaint shall include the names of individuals concerned, details of the incident/s and the names of any witnesses present. Please see below for Modern Star's stance on maintaining individual's confidentiality in the course of handling complaints.

(b) Formal investigation commenced

Where a written complaint has been lodged, a formal investigation procedure will commence immediately. Formal investigations may be conducted by Group HR Manager/CFO or an external person who is appointed by Modern Star such as an independent mediator.

Regardless of whether the investigation is carried out by a Modern Star staff member, or by an independent mediator, the investigator will aim to follow the procedure set out below:

1. Explain proceedings to all parties, including the option to bring a support person to meetings or interviews;
2. Clarify details of what took place and ensure that all necessary information is obtained;
3. Identify the outcome the complainant is seeking;
4. Discuss with the complainant their legal rights, including lodging a formal complaint with the relevant state or federal tribunal;
5. Discuss the complaint made with the person/s accused of bullying and give them reasonable opportunity to respond;
6. Discuss the complaint made with other persons who may be able to assist (if applicable);
7. Examine any relevant documents; and
8. Make a determination as to whether the alleged behaviour occurred and if it constituted bullying.

If Modern Star feels it is appropriate in the interests of health and safety of team members concerned, and/or the efficiency of the investigation process, team members may be requested to refrain from attending work for a period of time whilst the investigation is underway. Alternatively, team members may be given different duties or work to perform while the investigation is being conducted. Team members who are requested to do either of these will be paid at their normal rate of pay during this period.

Where it becomes apparent that the complaint made related to conduct which constitutes misconduct or otherwise warrants disciplinary action the Modern Star Disciplinary Policy should be referred to for further action and resolution.



Confidentiality

Whilst the Manager, HR or CFO will endeavour to preserve the confidentiality of the complainant and the person complained of, it may be necessary to speak with other team members or people involved to determine what happened and to maintain the integrity of the investigation process.

Where potentially unlawful conduct has occurred, Modern Star will need to alert the appropriate authorities.

Those people who are involved in the complaint (including the complainant, witnesses, etc.) are also under a duty to maintain confidentiality and display a commitment to uphold the integrity of the investigation process. If the complainant chooses to bring a support person with them to any meetings, they too are bound by confidentiality. Gossiping and/or the spreading of rumours as a result of, or in connection with, a process followed under this policy will not be tolerated under any circumstances and may lead to disciplinary action for those concerned.

Outcomes

The outcomes of a formal or an informal complaint procedure will depend on the nature of the complaint, its severity and what is deemed appropriate in the relevant circumstances. Where the results of an investigation procedure suggest that an individual is guilty of bullying, appropriate disciplinary procedures will be followed in line with Modern Star's Disciplinary Policy and Procedure. The disciplinary action will depend on the nature and severity of the behaviour and may include termination of employment, which may be instant/ summary dismissal where serious misconduct is deemed to have occurred.

Where the complaint involves a contractor, consultant or agent of Modern Star and an investigation process reveals that a person has engaged in unlawful conduct or other behaviour which is prohibited by this policy, those concerned may face termination of their contracts immediately, or will not be renewed in the future.

In addition to the remedies provided in Modern Star's Disciplinary Policy and Procedure, other action may be deemed necessary to resolve or remedy the behaviour complained of, including but not limited to:

- Providing coaching and mentoring or training individuals concerned regarding bullying;
- Requiring persons who have breached this policy to apologise to appropriate person/s;
- Adjusting working arrangements where appropriate;
- Conciliation/ mediation through a third party;
- Providing counselling to team members (complainant and the person complained of); or
- Placing employees on performance improvement plans to ensure improved behaviour.



Appeals procedure

Internal

If any parties involved in the complaint process are unhappy with the outcome, or the way the bullying complaints handling procedure was managed by the original investigating Manager, they can raise an appeal at the latest within 14 (fourteen) days of the original decision being made. The appeal must be in writing, stating the reasons of discontentment. An appeal should be made to:

- CEO; or
- A member of the Senior Management team.

Once notified the CEO/Senior Manager or their representative will conduct a review of the procedure followed, the outcome issued and make a final determination on the issue. Once this determination is made, the person who has made the appeal will be notified of the outcome and this determination will be final for the internal procedure.

External

Whilst, the preferred process involves persons covered by this policy resolving issues to their satisfaction internally without referral to external organisations or to authorities for assistance, if an individual is not satisfied with the Modern Star Bullying Procedures or outcome, they can contact the following external bodies for support:

Australia

Australian workers can apply to the Australian Fair Work Commission for an order to stop bullying under the Australian Fair Work Act 2009.

Modern Star will co-operate with the Australian Fair Work Commission claim procedure in line with legal requirements. More information about rights and the process can be found via the Fair Work Commission.

New Zealand

New Zealand workers can seek help via the Employee Relations Authority or the Human Rights Commission New Zealand, or NetSafe www.netsafe.org.nz, in relation to offensive digital communication e.g. cyberbullying.

In Singapore team members can contact the Ministry of Manpower (MOM) and in Hong Kong team members the Equal Opportunities Commission (EOC) for external assistance.

Worker Support

Bullying at work is a serious issue that can affect people in a number of ways. Workers who need support should speak to someone. Options include:

- A visit to the doctor;
- Calling local helplines;
 - In Australia; Lifeline on 13 11 14 (24-hour service) and Beyond Blue on 1300 22 4636;



- In New Zealand; Lifeline on 0800 543 354, Samaritans on 0800 726 666 and Healthline on 0800 611 116;
- Singapore – Institute of Mental Health (IMH) helpline, open 24 hours - 6389-2222 or Samaritans of Singapore (SOS)-1800 221 444;
- Hong Kong - The Samaritans – 2896 0000 operated 24 hours a day or Suicide Prevention Services 00852-2382 0000 (24/7 hotline).

Interpretation and Guidance

In the event that any additional guidance and/or further interpretation is required, please contact HR or;

Worldwide visit Befrienders Worldwide; <https://www.befrienders.org/bullying-at-work>

Australia visit the government website; <http://bullying.humanrights.gov.au>

New Zealand <https://www.employment.govt.nz/resolving-problems/types-of-problems/bullying-harassment-and-discrimination/bullying/>

or <http://www.worksafe.govt.nz/worksafe/toolshed/bullying-prevention-toolbox>