

## Standard

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## 1 PURPOSE

This document defines Downer’s approach and obligations in relation all forms of discrimination, bullying, harassment and occupational violence (together, inappropriate behaviour).

Downer is committed to providing a safe and respectful environment for staff and clients free from all forms of inappropriate behaviour. Staff found to have either committed or condoned such behaviour in the workplace will be subject to disciplinary action which may include the termination of employment.

All Downer staff are required to treat others with dignity, courtesy and respect.

All requirements in this standard are consistent with the documents listed in section [10 Referenced & Associated Documents](#).

## 2 SCOPE

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This standard applies to the Downer Group; hereafter referred to as Downer.

The target audiences for this standard are Responsible Managers, People and Culture Representatives, Investigation Officers, involved/ impacted third parties and all Downer workers.

This standard applies to people and circumstances (including but not limited to):

- Board members.
- All Downer workers including: managers and supervisors; full-time, part-time or casual, temporary or permanent staff; job candidates; student placements, apprentices, contractors, sub-contractors and volunteers.
- How Downer provides services to clients, customers and how it interacts with other members of the public.
- All aspects of employment, recruitment and selection; conditions and benefits; training and promotion; task allocation; shifts; hours; leave arrangements; workload; equipment and transport.
- On-site, off-site or after-hours work, work-related social functions, online, conferences – wherever and whenever staff may be as a result of their Downer duties.
- Staff treatment of other staff, of clients, and of other members of the public encountered in the course of their Downer duties.

When managing reports of inappropriate behaviour, Downer will also refer to relevant industrial instruments.

Any Downer worker found to have engaged in inappropriate behaviour will be subject to discipline action, up to and *including* termination of employment.

## 3 DEFINITIONS

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The following terms are used in this document and are included in the [Definitions Register](#).

<b>Complaint</b>	A personal work-related complaint or a whistleblower complaint. A complaint may also be referred to as a grievance.
<b>Customer</b>	A party that has contracted with an entity to obtain goods or services that are an output of the entity's ordinary activities in exchange for consideration.
<b>Employee Assistance Program (EAP)</b>	A private counselling service provided by Downer to assist employees with the resolution of personal and work-related problems which may affect their work performance or quality of life.
<b>Downer Worker</b>	All individuals working for Downer or related entities as: employees, contingent labour hire, contractors, subcontractors, apprentices, trainees, work experience students, and casual labour.
<b>Inappropriate Behaviour</b>	All forms of discrimination, bullying, harassment and occupational violence.
<b>Industrial Instrument</b>	A document that has legal application with respect to minimum entitlements to those employees covered within its scope. Industrial Instruments include Enterprise Agreements (AU), Collective/ Individual Employment Agreements (NZ) and Awards.

<b>Investigations Officer</b>	A person appointed by Downer to investigate formal complaints providing facts of investigations; and who is a neutral and credible investigator. This may be someone either internal or external to Downer.
<b>Responsible Manager</b>	The manager or supervisor assigned with the authority, responsibility and control of a specific workplace area or function, or personnel.
<b>Whistle-blower Complaint</b>	A complaint relating to reportable conduct that does not include any practice or behaviour that is related solely to a personal work-related complaint.

## 4 ROLES AND RESPONSIBILITIES

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### 4.1 Downer workers

All Downer workers have a legal responsibility to care for their own health and safety and that of co-workers, and therefore must not engage in acts which constitute inappropriate behaviour. In addition, Downer workers are required to follow instructions given by their responsible manager relating to the prevention of workplace injuries and illnesses. This applies to measures to prevent inappropriate behaviour which includes monitoring the work environment to ensure acceptable standards of conduct are observed at all times.

Therefore, all persons to whom this standard applies are responsible for fulfilling these responsibilities by:

- complying with this standard
- modelling appropriate behaviour
- treating other staff with respect and courtesy
- reporting incidences of inappropriate behaviour
- cooperating in any investigation into an incident of inappropriate behaviour, and maintaining confidentiality
- offering support to people who experience inappropriate behaviour, including providing information about how to make a complaint; and
- treating everyone with dignity, courtesy and respect.

### 4.2 Responsible Managers

Responsible Managers must also:

- model appropriate standards of behaviour
- take steps to educate and make staff aware of their obligations under this standard and the law
- intervene quickly and appropriately when they become aware of inappropriate behaviour
- act fairly to resolve issues and enforce workplace behavioural standards, making sure relevant parties are heard
- help staff resolve complaints informally
- refer formal complaints about breaches of this standard to their local People & Culture representative
- ensure staff who raise an issue or make a complaint are not victimised; and
- ensure that recruitment decisions are based on merit and that no discriminatory requests for information are made.

If a Downer worker brings an allegation to your attention:

- behave consistently with this standard
- resolve the complaint as quickly as possible or escalate it to the People & Culture team for investigation
- be sympathetic, sensitive and serious; the complaint is obviously serious to the person making it

- where possible, enquire into the matter within 2 working days, and attempt to resolve it as soon as possible; and
- take preventative measures in the workplace (e.g., staff education).

#### **DO NOT:**

- ignore a complaint
- tell the Downer worker making a complaint to sort it out themselves
- make a judgement about whether a complaint is true or not
- say that the Downer worker should put up with the bullying; and
- talk to anyone about the issue except those involved in the investigation and resolution of the complaint.

## **4.2.1 Management action steps**

Notify your People & Culture representative immediately and act in accordance with the requirements outlined in the [DG-HR-ST016 Raising and Managing Complaints Standard](#).

Disclosure of information or making a report can be very difficult for the affected Downer worker. Managers need to take necessary welfare steps following the making of a report of inappropriate behaviour. This may include allowing a Downer worker to go home for the rest of the day, ensuring they have safe transport, connecting them with a support person and with the [Employee Assistance Program](#) (EAP) or equivalent as well as supporting alternative work arrangements or other reasonable work adjustments for as long as is necessary.

## **4.3 People & Culture**

In the context of this standard, People & Culture is responsible for:

- providing advice in relation to matters covered by this standard
- assisting Downer workers and managers in understanding their roles and responsibilities
- conducting reviews and/or engaging an independent external reviewer to do so; and
- assisting with assessing whether a report of inappropriate behaviour requires action under a different process.

## **4.4 Legal liability**

Downer workers may be personally liable if allegations of inappropriate behaviour are substantiated against them.

Legal action (civil and/or criminal) may be taken against a person who has engaged in inappropriate behaviour and/or any other person who requests, instructs, induces, encourages, authorises or assists the unlawful conduct.

# **5 BULLYING, HARASSMENT, DISCRIMINATION AND THE WORKPLACE**

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## **5.1 What is bullying?**

Workplace bullying is repeated unreasonable behaviour directed towards a Downer worker or group of Downer workers that creates a risk to health and safety.

Bullying usually occurs inside a workplace, for example, one Downer worker may bully another Downer worker, or a group of Downer workers may bully an individual. However, customers, clients and contractors may also bully Downer workers. Bullying may also amount to unlawful discrimination.

The following types of behaviour were directed towards an individual and repeated, or occurring as part of a pattern of behaviour, could be considered to be bullying:

- demeaning language or verbal abuse
- threats, physical or verbal intimidation
- outbursts of anger or aggression
- excluding or isolating Downer workers
- “ganging up” on a Downer worker.
- psychological harassment or intimidation.
- giving Downer workers impossible assignments
- deliberately changing work rosters to inconvenience particular Downer workers; and
- deliberately withholding information that is vital for effective work performance.

The above list is not exhaustive. Other types of behaviour may also constitute bullying.

## 5.1.1 What is reasonable management action?

Reasonable management actions carried out in a fair and reasonable manner are not bullying.

For example, actions could include:

- setting performance goals, standards and deadlines
- allocating work to a Downer worker
- rostering and allocating work hours
- deciding not to select a Downer worker for promotion
- informing a Downer worker about unsatisfactory work performance
- informing a Downer worker about inappropriate behaviour
- implementing organisational changes
- performance management processes
- constructive feedback
- downsizing; and
- requesting information from a Downer worker regarding incidents, injury or return to work plans and programs.

## 5.2 What is occupational violence?

Occupational or work-related violence involves incidents when a person is abused, threatened or assaulted in circumstances relating to their work. Occupational related violence can come from co-workers, clients, customers, patients, contractors, people in custody and members of the public.

Examples of work-related violence can include (but is not limited to):

- biting, spitting, scratching, hitting, kicking
- pushing, shoving, tripping, grabbing
- throwing objects
- verbal threats or abuse
- armed robbery
- sexual harassment and assault
- online harassment, threats or abuse; and

- threatening or assault with a weapon.

## 5.3 What is discrimination?

Discrimination is treating, or proposing to treat, someone unfavourably because of a personal characteristic protected by the law, such as sex, age, race or disability.

Discrimination can occur:

- **Directly**, when a person or group is treated less favourably than another person or group in a similar situation because of a personal characteristic protected by law (see list below).
  - *For example, a Downer worker is harassed and humiliated because of their race or a Downer worker is refused promotion because they are 'too old'*
- **Indirectly**, when an unreasonable requirement, condition or practice is imposed that has, or is likely to have, the effect of disadvantaging people with a personal characteristic protected by law (see list below).
  - For example, redundancy is decided based on people who have had a worker's compensation claim rather than on merit.

Protected personal characteristics discrimination law include:

- a disability, disease or injury, including work-related injury
- parental status or status as a carer, for example, because they are responsible for caring for children or other family members
- race, colour, descent, national origin, or ethnic background
- age, whether young or old, or because of age in general
- sex
- industrial activity, including being a member of an industrial organisation like a trade union or taking part in industrial activity, or deciding not to join a union
- religion
- pregnancy and breastfeeding
- sexual orientation, intersex status or gender identity, including gay, lesbian, bisexual, transsexual, transgender, queer and heterosexual
- marital status, whether married, divorced, unmarried or in a de facto relationship or same sex relationship
- political opinion
- social origin
- medical record (subject to the inherent requirements of the role being met); and
- an association with someone who has, or is assumed to have, one of these characteristics, such as being the parent of a child with a disability.

In some jurisdictions additional attributes are protected.

It is also against the law to treat someone unfavourably because you assume they have a protected characteristic or may have it at some time in the future.

Discrimination can happen at different points in the employment relationship, including:

- when recruiting and selecting staff
- in the terms, conditions and benefits offered as part of employment
- who is considered or selected for training and the sort of training offered
- who is considered or selected for transfer or promotion; and
- who is considered and selected for retrenchment or dismissal

Examples of discrimination include:

- An employer refusing to hire a suitably qualified person for a role because they were of a particular racial background, and instead hired a less qualified person of a different racial background. This could be racial discrimination; and
- A policy that says only full-time workers will be promoted not taking into account the actual requirements of the role. This could discriminate against women who are more likely to work part-time to accommodate their family responsibilities.

## 5.4 What is harassment?

Harassment is unwelcome behaviour that intimidates, offends or humiliates a person in circumstances where a reasonable person would have anticipated that the person harassed would be offended, humiliated or intimidated.

Harassment can include behaviour such as (but is not limited to):

- telling insulting jokes about particular racial groups
- sending explicit or sexually suggestive emails or text messages
- displaying racially offensive or pornographic posters or screen savers; and
- making derogatory comments or taunts about someone's race.

A one-off incident can constitute harassment.

For further information regarding sexual harassment please see the *DG-HR-ST032 Prevention of Sex Based Discrimination and Sexual Harassment Standard*.

## 5.5 What is the Workplace?

### 5.5.1 Within the workplace

For the purposes of inappropriate behaviour, a workplace is any place a person attends for the purpose of carrying out functions in connection with, or in the course of their employment or prospective employment. It does not need to be the person's principal place of business or employment. It includes a place that is a workplace of either or both people involved in an incident of inappropriate behaviour.

For example, this standard also pertains to Downer workers who visit other offices i.e., the same behavioural standards that exist in their workplaces, apply in other offices that Downer workers visit.

The workplace is not confined to the actual physical location used by the Downer workers. It also extends to common areas such as lifts, entrances, vehicles, reception areas, corridors, kitchens and toilets of the premises.

### 5.5.2 Beyond the workplace and outside working hours

Behaviour constituting inappropriate behaviour can occur beyond the usual workplace and outside normal working hours.

For example, inappropriate behaviour can occur where there is a link to employment including (but not limited to):

- at social functions sponsored and paid for by Downer
- at social functions in connection with the team/workplace but not sponsored or paid by Downer
- in vehicles while on the way to work functions or meetings
- at after-parties to such events (regardless of their location)
- in accommodation (including hotel rooms) associated with or provided by Downer
- online via use of technology and social media (this includes where Downer workers are working remotely and using Downer tools such as Outlook and Microsoft Teams) and including all electronic communications, and
- any other location in situations where the conduct commenced in the workplace and continued outside the workplace and vice-versa.

Consumption of alcohol at work functions or at a work-related event outside the usual workplace and hours of work is not an excuse for conduct that constitutes inappropriate behaviour. Downer workers should regulate their own behaviour and consumption of alcohol (noting that Downer workplaces have a zero-tolerance approach to alcohol) to ensure their behaviour does not adversely impact others.

### 5.5.3 Technology and social media

Inappropriate behaviour can occur through electronic means (such as Microsoft Teams, work emails, personal emails or text messages, or by viewing pornographic websites) and through social media, regardless of whether the post was made during work hours or not. Where there is a link to employment, Downer workers are subject to the same rules about inappropriate behaviour in the virtual world as they are in the real world.

As such, Downer workers are required to use technology and social media responsibly in the workplace and in relation to anything or anyone associated with the workplace. This extends to the use of technology and social media outside the workplace where there is a connection to the employment relationship (for example, between colleagues where the foundation of the relationship is a common workplace). For further information, please refer to Downers [Social Media Usage Policy](#).

## 6 STANDARDS OF BUSINESS CONDUCT

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Downer workers are required to conduct themselves in a manner that is consistent with Downer's values. These values and principles are further defined through the [Standards of Business Conduct](#). In the context of inappropriate behaviour, demonstrating the following values are particularly relevant:

- **Sustainability** – Safety is our first priority. Zero Harm of our people, communities and environment is embedded in our culture. We will leave a positive legacy for future generations.
- **Delivery** – We build trust by delivering on our promises with excellence, while focussing on sustainability, value for money and efficiency.
- **Relationships** – We collaborate to build and sustain enduring relationships with our customers, our people and our communities based on trust and integrity.

## 7 REPORTING INAPPROPRIATE BEHAVIOURS

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Downer workers may deal with inappropriate behaviour either by resolving the issues themselves by discussing the problem with the person involved, or by seeking assistance from their responsible manager and/or their People & Culture representative.

It is important that you do not ignore circumstances where you feel you are being subjected to inappropriate behaviour, thinking it will go away. Ignoring the behaviour could be wrongly interpreted as approval by the person engaging in the inappropriate behaviour.

Below is a summary of the steps that can be taken to address individual concerns and who to contact:

- If you feel comfortable to do so, try to resolve the problem yourself with the person(s) involved as soon as possible. You may find that they didn't mean to do what they did.
- If you're unsure of how to handle the problem yourself, or you just want to talk about the problem with someone and get more information about what you can do, talk to your manager and/or your People & Culture representative.
- If you are not comfortable talking to your manager or People & Culture representative, reports can also be made to:
  - Downer's Investigations Officer by emailing [respect@downergroup.com](mailto:respect@downergroup.com)
  - **Our Voice** - Downer's independent whistle-blower service – on 1800 448 041 (Australia) or 0800 404 509 (New Zealand) / online at <http://www.ourvoice.deloittedigital.com/> / by email [ourvoice@deloittedigital.com](mailto:ourvoice@deloittedigital.com).

### 7.1 Confidentiality



Anyone involved in a complaint, or its investigation, must ensure that the circumstances and facts of the complaint are disclosed only to those people who are directly involved in progressing its investigation and resolution, or have a 'need to know'. In particular, it is important that persons who either make a complaint or may be witnesses to the circumstances giving rise to the complaint, do not discuss the matter outside the investigation and resolution processes.

Where appropriate, disclosures/reports of inappropriate behaviour will be treated in confidence to protect a Downer worker's personal privacy as much as possible. However, allegations of inappropriate behaviour are serious and should be considered accordingly. In some instances, a matter may need to be escalated or referred without agreement from the Downer worker, particularly in circumstances that may:

- constitute a criminal offence(s)
- constitute a workplace health and safety risk, or
- require disciplinary action.

Only necessary persons in Downer will be advised of the declaration/report and any arrangements necessary for the purpose of managing the disclosure/report. At the time a disclosure/report is made, Downer should notify the parties who, within the organisation, will be privy to this information.

## 7.2 Anonymous reports

In some situations, a witness may wish to remain anonymous and where appropriate, anonymity will be provided. However, it may not be possible in all circumstances to keep the identity of a person, or people providing information, confidential. In some situations, it may be the case that a respondent may need to be provided with the full details of allegations when consideration of procedural fairness are taken into account.

## 7.3 Accessibility

Downer will ensure that reasonable adjustments to the reporting process are provided to help a Downer worker with a disability make their report and participate in the process as well as connecting to appropriate support services. Any assistance will be done so in the strictest of confidence to ensure confidentiality is maintained. Downer will communicate with the Downer worker who they will be seeking assistance from and why, prior to doing so. Please contact the People & Culture team for assistance and support.

## 7.4 Bystander Intervention

Bystanders, including colleagues, who witness or are aware of inappropriate behaviours, play an important role in responding to inappropriate behaviours in the workplace. When grounded in behaviours of integrity and respect, action taken by colleagues can positively impact on defining workplace culture.

Bystanders that are aware of inappropriate behaviours should consider:

- providing support to the colleague subjected to the inappropriate behaviours
- where appropriate, formally or informally challenging concerning behaviour, and
- reporting inappropriate behaviours.

The standard that people walk past is the standard that people accept.

## 7.5 Victimisation

Downer has a zero-tolerance approach to victimisation or detrimental treatment of any person who has made a report or witnesses an incident.

It is unlawful to victimise a person, which means treat them badly or unfairly, because they have made a report of inappropriate behaviour, or have witnessed and / or helped someone else to make a report. Any Downer worker found to have engaged in victimisation will be subject to discipline action, up to and including termination of employment.

Legislation protects Downer workers from being punished, or treated unfairly, for asserting workplace rights. It is against the law for an employer to treat a Downer worker unfairly, or to punish them because they:

- Made, or did not make, a complaint about inappropriate behaviour

- Proposed to make a complaint
- Helped someone else make a complaint; and
- Raised an issue about inappropriate behaviour in their workplace

Some examples of unfair treatment include:

- Ending your employment
- Offering fewer shifts or fewer hours
- Not allowing you to attend training; and
- Threatening you to try to stop you from making a complaint.

Please contact People & Culture immediately if you have experienced any unfair treatment or detriment as a result of making a report of inappropriate behaviour or helping another person to make a report.

Reports can also be made to:

- Downer's Investigations Officer by emailing [respect@downergroup.com](mailto:respect@downergroup.com)
- **Our Voice** - Downer's independent whistle-blower service –on 1800 448 041 (Australia) or 0800 404 509 (New Zealand) / online at <http://www.ourvoice.deloittedigital.com/> / by email [ourvoice@deloittedigital.com](mailto:ourvoice@deloittedigital.com).

Victimisation is a very serious breach of this standard and is likely (depending on the severity and circumstances) to result in formal discipline against the perpetrator, which may include termination of employment.

## 8 SUPPORT / WELFARE

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Disclosure of information or making a report can be very difficult for the affected Downer workers. Managers will take necessary welfare steps following the making of a report of inappropriate behaviour. This may include allowing a Downer worker to go home for the rest of the day, ensuring they have safe transport, connecting them with a support person and with the **Employee Assistance Program** (EAP) or equivalent as well as supporting alternative work arrangements or other reasonable work adjustments for as long as is necessary.

## 9 INVESTIGATION

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Downer takes all complaints seriously and as such once a complaint has been raised, an investigation will be conducted in accordance with the requirements outlined in the **DG-HR-ST016 Raising and Managing Complaints Standard**.

## 10 REFERENCED & ASSOCIATED DOCUMENTS

### POLICIES

<a href="#">DG-CS-PO002</a>	Privacy Policy
<a href="#">DG-CA-PO003</a>	Social Media Usage Policy
<a href="#">DG-CS-PO003</a>	Business Integrity Policy
<a href="#">DG-CS-PO008</a>	Standards of Business Conduct
<a href="#">DG-HR-PO004</a>	Anti-discrimination, Harassment and Bullying Policy
<a href="#">DG-HR-PO007</a>	Inclusion and Belonging Policy
<a href="#">DG-HR-PO008</a>	Aboriginal and Torres Strait Islander Policy
<a href="#">DG-HR-PO010</a>	Employee Relations Policy

### PROCEDURES

<a href="#">DG-ZH-PR150</a>	Just Culture Procedure
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### STANDARDS

<a href="#">DG-HR-ST001</a>	Inclusion and Belonging Standard
<a href="#">DG-HR-ST015</a>	Managing Performance Standard
<a href="#">DG-HR-ST016</a>	Raising and Managing Complaints Standard
<a href="#">DG-HR-ST017</a>	Managing Misconduct Standard
<a href="#">DG-HR-ST032</a>	Sex Based Discrimination and Sexual Harassment in the Workplace Standard

### FORMS

<a href="#">DG-HR-FM002</a>	Investigation Record – Complaint - Misconduct
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### TEMPLATES

<a href="#">DG-HR-TP005</a>	Investigation Outcome Letter – Complaint – Misconduct
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### REGISTERS

[Definitions Register](#)

### GUIDES

<a href="#">DG-HR-GU006</a>	Managing Misconduct Guide
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### LEGISLATIVE REQUIREMENTS

#### Australia

*Age Discrimination Act 2004 (Cth)*

*Commonwealth Work Health and Safety Act 2011 (Cth)*

*Commonwealth State and territory anti-discrimination, equal opportunity and human rights laws*

*Commonwealth state and territory Work Health and Safety (WHS) laws*

*Commonwealth state and territory workers' compensation laws, criminal law*

*Crimes Act 1914 (Cth)*

*Disability Discrimination Act 1992 (Cth)*

*Fair Work Act 2009 (Cth)*

*Human Rights and Equal opportunity Commission Act 1986 (Cth)*

*Race Discrimination Act 1975 (Cth)*

*Sex Discrimination Act 1984 (Cth)*

## ***New Zealand***

*Accident Compensation Act 2001*

*Crimes Act 1961*

*Employment Relations Act 2000*

*Harassment Act 1997*

*Health and Safety at Work Act 2015*

*Human Rights Act 1993*