

OFFICIAL

SA Health

Guideline

Addressing disrespectful behaviour
(including bullying and harassment)

COPY WHEN PRINTED

Version 2.0

Approval date: 16/03/2022

PDS Reference No.: G0195

OFFICIAL



Government
of South Australia

SA Health

Contents

1. Name of guideline	3
2. Relationship to parent policy	3
3. Guideline statement	3
4. Applicability.....	3
5. Guideline details	3
6. Supporting information	10
7. Definitions.....	10
8. Document ownership.....	10
9. Document history.....	10
10. Appendices.....	10

1. Name of guideline

Addressing disrespectful behaviour (including bullying and harassment) Guideline.

2. Relationship to parent policy

This Guideline supports the implementation of the SA Health Respectful Behaviour (including management of bullying and harassment) Policy.

3. Guideline statement

This Guideline outlines a number of best practice approaches, options and considerations to assist employees or managers to deal with disrespectful behaviour including bullying, harassment, sexual harassment, victimisation and discrimination, which are inconsistent with the requirements of the *Respectful Behaviour (including management of bullying and harassment) Policy*. The informal and formal processes outlined in this Guideline do not prevent a worker from pursuing a matter through external agencies or derogate from any responsibility for making mandatory reports pursuant to any legislation.

SA Health employees are encouraged to report all instances or complaints related to workplace bullying, harassment, sexual harassment or victimisation promptly so that appropriate action can be taken. SA Health commits to treating all complaints received in a confidential, sensitive and fair manner, bearing in mind that in some circumstances, SA Health may have an obligation to report a matter to external agencies, such as SAPOL.

The *Respectful Behaviour (including management of bullying and harassment) Policy* provides that employees may indicate their preferred approach/option to address workplace interactions that impacts on them. Employees may be supported by a person of their choice throughout these processes. Advice may be sought from Human Resources (HR) and/or local Contact Persons (nominated to support employees with concerns about unacceptable workplace interactions).

4. Applicability

This guideline applies to all employees and contractors of SA Health; that is all employees and contractors of the Department for Health and Wellbeing, Local Health Networks (including state-wide services aligned with those Networks¹) and SA Ambulance Service.

5. Guideline details

5.1. **Obligation to address unacceptable and harmful workplace interactions**

An Executive or Line Manager, becomes aware of disrespectful or other unacceptable interactions in the workplace (as stated above) that may impact the health and wellbeing of others, has an obligation to promptly address these interactions and/or report the matter to a person more appropriate to effectively deal with the concerns.

It may be sufficient to have an informal discussion with the persons concerned to raise awareness about the requirement to act respectfully; or to have a general discussion with the Line Manager and the work group about respectful behaviour. Where the unacceptable interactions are of a serious nature (e.g. are unlawful and/or impact the health and safety of others in the workplace) or are being

¹ 'Statewide services' includes Statewide Clinical Support Services, Prison Health, SA Dental Service, BreastScreen SA and any other state-wide services that fall under the governance of the Local Health Networks.

repeated regardless of informal interventions, an investigation and/or other formal action may be warranted.

It is recommended that any employee, who believes they have been subjected to disrespectful or other unacceptable workplace behaviour, act as soon as possible after the relevant event to ensure the offending behaviour is addressed. Such action may include reporting the matter to a person appropriate to address the unacceptable behaviour (e.g. an Executive, senior Manager or Human Resources Manager) and indicating their preferred approach to have the matter addressed.

5.2. Approaches and options for addressing disrespectful and other unacceptable interactions

5.2.1. Resolution directly between parties involved

Wherever practical (and where the affected employee feels comfortable approaching the other party), less serious instances of disrespectful or other unacceptable workplace interactions (e.g. the impact on the individuals, work group or operations is of a minor nature and/or the behaviour is recent and only sporadic) may be addressed in a non-confrontational manner and resolved informally between the employees themselves. If appropriate, this approach may be helpful to maintain ongoing working relationships.

Employees can access the Employee Assistance Program to provide them with coaching to assist them with having this conversation with their colleague(s) and to be able to raise the issue clearly, tactfully and constructively. Alternatively, they may seek advice/coaching from their immediate manager, a trusted colleague, a local Human Resources (HR) Consultant or a locally nominated Contact Person.

5.2.2. Informal resolution (early intervention) - involving management/HR

If an employee prefers not to address the matter directly with their colleague, or their attempt to do so was not successful, they may raise the matter directly with their Line Manager to address. If it is not appropriate or advisable to seek support from their Line Manager, employees may approach their next level manager/relevant Executive or ask HR or their local Contact Person to facilitate their approach to their next level manager.

The Line Manager (or the next level manager) should take action to effectively deal with the issue. This may include a general discussion with the employees involved about acceptable and unacceptable interactions at work. An informal discussion with the employee(s) involved could include:

- > Raising employee awareness of SA Health's requirement for employees to maintain a respectful workplace, zero tolerance for bullying, harassment, sexual harassment, discrimination or victimisation; and of the Work Health and Safety obligations of both the employer and employee to ensure a safe workplace free from risks of harm (including psychological harm);
- > Resolving/addressing relevant issues as far as possible; and
- > Directing the employees involved to end any disrespectful behaviour, bullying, harassment, victimisation and/or discriminatory interactions.

This process may not lead to a formal investigation; however, the Manager or more senior Manager may determine that the behaviour is of such a nature that it warrants a formal investigation (e.g. where the actions are unlawful and/or may impact the health and safety of others in the workplace). Advice on this may be sought from their local HR Manager.

5.2.3. Facilitated discussion involving all parties

A manager who becomes / is made aware of disrespectful or other unacceptable interactions in the workplace, should consider whether bringing the employees together to address/resolve the issue would be safe and useful; or whether external mediation (5.2.4) would be more appropriate.

If the manager decides to conduct a facilitated discussion with the employees involved, the discussion should not assign blame, but rather focus on the negative impact of the alleged disrespectful or other unacceptable interactions on the work environment and SA Health's expectations regarding respectful behaviours and zero tolerance for bullying, harassment, sexual harassment, discrimination or victimisation. In preparation for this discussion, managers may refer to the Respectful Behaviour (including management of bullying and harassment) Policy and related intranet pages for applicable resources and/or may contact the Employee Assistance Program providers for support and assistance with preparation.

5.2.4. Independent mediation

In some situations, if the parties freely agree to this, it may be appropriate to engage an independent accredited mediator (or agreed internal mediator) to assist the parties to address/resolve the issues. The aim of an independent mediation is to bring the parties together to discuss the issues of concern in a confidential, transparent and safe environment and consider how the issues could be resolved.

Independent mediation may be preferred:

- > when the parties involved do not agree on the events that took place;
- > there are more than two parties involved;
- > one of the parties is perceived to have or has more power than the others; or
- > the conflict is escalating and has high emotional content.

Agreement of the parties to the mediation may be sought by providing written information on the proposed mediator, the mediation process, and the underlying principles (e.g. transparency of communications; confidentiality of the discussion and unbiased consideration of matters).

In instances where employees involved are reluctant to participate in mediation, they may be willing to participate with a support person of their choice present. If agreement to the mediation process cannot be reached, parties may suggest alternative ways to address the concerns and/or may be issued reasonable directions from their Line Manager or Executive in relation to their conduct and behaviour going forward.

The mediator's role is to provide an objective and safe process that ensures that both /all parties are equally listened to; to provide a structured process for exploring the relevant concerns/issues; and assist with the discussion of options for resolution in a way that is satisfactory to all participants. The mediator's role does not include divulging the details of the discussion to parties outside the mediation or making recommendations to the organisation.

The mediation session should be conducted in a neutral location. The mediator should remain objective; should not take sides during the discussion; but instead facilitate the discussion by listing matters for discussion in objective terms; asking questions to ensure all relevant information is considered; and ensuring the conversation remains respectful and productive. The aim of the independent mediation is for the participants to devise a solution(s) to the issues themselves and formulate this in a written agreement about how the parties will work together in the future.

To ensure transparency, confidentiality and objectivity, it is recommended that the mediator follows the process below:

- > Explain the mediation process, principles and purpose.
- > Obtain commitment and agreement from the participants to the mediated process and to acceptable interactions during the process.
- > Together with the parties, list issues for discussion in objective wording.
- > Enable and facilitate constructive discussion and problem-solving of the issues listed by the parties. (This will allow the parties to put forward their views of events in a respectful manner; list considerations for resolution of the issues; and generate options to resolve the issues.)
- > Where required and agreed, the mediator may meet with each participant separately to explore issues raised and facilitate outcomes/resolutions that may be acceptable to the participants.

If agreement is reached between the parties, the agreement should ideally be put in writing and signed by the parties. More than one session may be required to successfully address all issues. Where agreement cannot be reached, parties may suggest alternative ways to address the concerns and/or may be issued reasonable directions from their Line Manager or Executive in relation to their conduct and behaviour going forward.

An accredited mediator can be arranged by contacting the local Human Resources Manager. It will increase participant ownership of the process and the outcome if the parties are engaged in the choice of the mediator. All costs incurred will be the responsibility of the immediate work area, but the limits of costs and number of sessions should be clarified prior to engaging the mediator. The person engaging the mediator should be clear to the mediator on the terms of the expected mediation before it commences, including;

- > Agreement on the principles of independent mediation and the process that will be followed (as provided in section 5.2.4 of this Guideline).
- > Who will be present during the mediation, e.g. whether support people may be involved.
- > Clarity on what agreement outcomes may not be acceptable to the organisation.
- > What aspects of the written agreement will be shared with the organisation.
- > How the agreement will be monitored by the manager or other agreed party in the future.

5.2.5. Reporting unacceptable workplace behaviour through the SA Health Hotline

Unacceptable workplace interactions covered by Respectful Behaviour (including management of bullying and harassment) Policy may also be reported through the SA Health Hotline (disrespectful behaviour, bullying and harassment phone 1300 30 45 50, email sahealth@stopline.com.au). The Hotline is operated by an external provider, Stopline, and captures the information provided by the SA Health employee. The information provided by the employee is subsequently conveyed to relevant SA Health organisation for consideration. The external provider does not assess or investigate any reports received.

A formal investigation may, however, be initiated depending upon the content of the report and the seriousness of the disclosure made by the complainant.

5.2.6. Formal complaint

A formal complaint may be made where disrespectful behaviours or other unacceptable interactions continue despite attempts to address this; or the complainant considers the behaviour of the other person ('respondent') is of such a nature that the matter ought to be dealt with formally.

Any formal complaint should be made in writing addressed to the relevant Executive/Director (or higher level if the relevant Executive/Director is the subject of the complaint), and include the following:

- > The name(s) of the complainant(s) and the employee(s) complained of.
- > A description of the allegedly disrespectful or other unacceptable workplace interactions/behaviour and the reasons why the complainant considers the behaviour to be unacceptable.
- > The names of possible witnesses and what events or behaviours they may have observed.
- > An explanation as to why the complainant believes the informal process was not, is not, or would not be, effective or appropriate.
- > The complainant's preference as to how the matter should be addressed – whether the complainant requires a formal investigation or wishes to suggest another practical resolution of their concerns.
- > Whether the complainant has any concerns about continuing in their current workplace; and, if they have concerns, any strategies and measures they propose to be implemented during the interim period (until matters are addressed) to prevent/minimise risk of harm.

The (Executive) Director, to whom the complaint has been made, should exercise reasonable care to prevent risks of harm to the complainant arising from making a complaint; and should consider measures (in consultation with the complainant) to protect them from reprisal. Steps taken (in consultation with the complainant) to prevent victimisation or reprisal should be documented.

Similarly, the (Executive) Director to whom the complaint has been made should take reasonable care to prevent risks of undue harm to the respondent by ensuring that the confidentiality of the issues and process is maintained by all parties; and by providing natural justice / fair process to the respondent - including the option to be supported by a person of their choice throughout the process and accessing the Employee Assistance Program.

Upon receipt of a written complaint, Human Resources (or another relevant division identified in the SA Health organisation) should be notified to ensure visibility of complaints received within that entity.

The (Executive) Director, in consultation with HR, should assess the complaint - including speaking with the parties concerned and their representatives - and determine whether:

- > no further action is required;
- > to arrange independent mediation in the first instance (if this has not already occurred and if the parties, especially the complainant, are willing and freely agree to participate in the mediation);
- > to implement another option - as proposed by the complainant (e.g. respectful behaviour training of staff or transfer to a different workplace or work unit); or
- > to proceed with a formal investigation.

Section 4-1-7 - Managing unsatisfactory performance, discipline and termination - of the SA Health (Health Care Act) Human Resources Manual or the Management of Unsatisfactory Performance (Including Misconduct) Guideline - as respectively applicable to Health Care Act 2008 employees or employees appointed under Part 7 of the Public Sector Act 2009 provides a process for formal investigation. (This includes, among other requirements, that the respondent be provided with the details of the allegations and an opportunity to respond; and finalising the investigation regardless of whether the subject of the investigation leaves the organisation.)

Reasonable timeframes should be adhered to, the timeframe may be agreed with the complainant, if possible. If the matter is not progressed within a reasonable timeframe, the complainant may utilise the SA Health grievance procedures to expedite the outcome.

Best practice provides that processes, including the investigation processes, be documented.

The complainant should be advised of the progress of addressing their complaint throughout the process, whether the complaint is addressed through a formal investigation or otherwise.

Substantiated claims may result in disciplinary action being taken against the respondent. The complainant may not necessarily be advised of the disciplinary sanctions applied to the other party.

Unsubstantiated claims may require follow-up action to ensure the safety and wellbeing of the parties concerned (as the situation dictates). Where it is established that the complainant has knowingly made a false or misleading allegation, the complainant may face disciplinary action.

Both parties should be advised of actions required of them upon completion of the investigation.

Confidentiality provisions apply when a complaint about disrespectful or other unacceptable workplace interactions is made. A breach of confidentiality by any person involved in addressing the issues or related proceedings may be regarded as misconduct.

External parties such as the Australian Health Practitioner Regulation Agency (Ahpra) or the Independent Commission Against Corruption (ICAC) may have reporting requirements that are taken into consideration where a matter constitutes a criminal offence or may endanger or pose a risk to the safety of workers in the workplace.

If the (Executive) Director determines not to progress the complaint (e.g. it is assessed prima facie as trivial, vexatious or without merit or factual basis; and other options in this Guideline are not considered appropriate under the circumstances); the complainant must be advised without delay of this decision, the reasons for this and the applicable grievance process if the complainant wishes to appeal this decision.

Where an anonymous allegation of disrespectful or other unacceptable workplace interactions is made about another employee(s), the Manager/Executive who received the complaint should take it seriously and assess whether there is any evidence that could reasonably be put to the (responding) employee(s) and, taking account of the nature of the allegation, determine how to best to deal with it. This may include any of the options listed in this Guideline, or the Manager/Executive may determine (with reason) there is no substance to the complaint.

5.2.7. Safety Learning System (SLS)

Work health and safety incidents are logged through the SLS. The SLS is used to record and monitor incidents from a work health and safety perspective and workers may lodge reports on this system. Incidents logged through the SLS generally go directly to the relevant Line Manager.

Intervention strategies should be based on knowledge of and insight in the relevant work setting. These measures should be regularly reviewed to ensure they are effective.

The SLS system is not a vehicle for formal investigation or recording of disciplinary action. The SLS reports are not confidential and, unless the unsafe behaviour causes or may cause the employee (psychological) injury, reporting through the SLS may not be the appropriate pathway to address concerns relating to minor disrespectful behaviour or isolated instances of other unacceptable workplace interactions.

5.2.8. Grievance procedure

Employees under Part 7 of the Public Sector Act 2009 (PS Act), who are affected by a management decision, may apply for review of the decision in accordance with sections 59 to 63 of the PS Act and sections 26 to 28 of the Public Sector Regulations 2010. In this regard, PS Act employees have access to internal and external review processes of all management decisions. (Refer to sections 58 to 64 of the PS Act).

Health Care Act 2008 (HC Act) employees may request (in writing to the Chief Executive Officer or Chief Executive), a review of any management decision within seven days of being notified of the decision. If the matter is not resolved at the local level, HC Act employees may lodge an application to have their grievance reviewed by the Grievance and Reclassification Appeal Panel within the Department for Health and Wellbeing. (Refer to Part 3 Grievances and Disputes in the SA Health (Health Care Act) Human Resources Manual.)

5.2.9. External bodies

SA Health encourages workers to seek to resolve matters internally. However, employees may be legally obligated to report some matters to an appropriate authority, including (but not limited to) the Office for Public Integrity or SAPOL. SA Health further respects the right of workers to lodge a relevant complaint with the Equal Opportunity Commission; report a WHS matter to SafeWork SA, make a public interest disclosure pursuant to the Public Interest Disclosure Act 2018 (SA) or exercise any other right or remedy legally mandated or available to them.

5.2.10. Employee Assistance Program (EAP)

All employees may access the Employee Assistance Program, which is a confidential free external counselling service provided by the employer for employees and their family members to address issues affecting their work. Counsellors can provide helpful advice to deal with conflict at work and to identify options for addressing disrespectful or other unacceptable workplace behaviours. All counsellors are qualified, experienced professionals who have extensive training and experience in counselling, coaching and workplace consulting. Managers should encourage employees (including complainants and respondents to allegations) to make full and effective use of the EAP service.

During the sessions with the EAP provider, other factors (besides dealing with conflict or unacceptable interactions at work) may also be considered that may require additional support for the employee, such as their general mental health and wellbeing, cultural safety, domestic and family safety, and accessing/referring to specialist resources - as may be necessary.

5.3. Responding to allegations of disrespectful or other unacceptable workplace behaviours

It is recommended that a respondent (including an Executive or other Line Manager), of whom allegations of unacceptable interactions at work have been made (whether a formal complaint has been made or not):

- > Consider with an open mind the concerns voiced.
- > Confidentially seek a (truly) objective opinion about their workplace behaviour from a colleague they trust.
- > Seek advice from Human Resources (and/or from the EAP providers) on addressing the concerns raised.
- > Consider how behaviour might be modified and how workplace interactions could be improved.
- > Adjust their behaviour, implement measures to improve interactions and seek feedback.

If they are the respondent to a formal complaint, Human Resources can provide advice on the applicable procedures and their rights to natural justice, to confidentiality of the complaints and resulting processes, and to being supported by a person of their choice throughout the process.

6. Supporting information

Refer to section 7 of the *Respectful Behaviour (including bullying and harassment) Policy*.

7. Definitions

Refer to section 8 of the *Respectful Behaviour (including bullying and harassment) Policy*.

8. Document ownership

Guideline owner: Executive Director Workforce, Custodian for the Employment, Work Health and Safety Domain

Title: *Addressing disrespectful and other unacceptable workplace interactions Guideline*.

ISBN: 978-1-76083-460-9

Objective reference number:

Date published: 01/05/2022

Review date: 16/03/2026

Contact for enquiries: Employees may contact their local HR work unit for advice on the implementation of this Guideline. Workforce/People and Culture leaders across SA Health are welcome to contact Workforce Services in the Department for Health and Wellbeing by email: Health.DHWWorkforceServicesCorrespondence@sa.gov.au.

9. Document history

Version	Date approved	Approved by	Amendment notes
V2.0	16/03/2022	Deputy Chief Executive	<i>Amendments and change of title to reflect feedback from stakeholders across SA Health during consultation of Cultural Reform Policies.</i>
V1.0	05/04/2016	Portfolio Executive	<u>Original version</u> -currently on PDS is: <i>Management of Disrespectful Behaviour Policy Guideline</i>

10. Appendices

Nil.