Workplace Behaviour Policy – Australia and New Zealand

We may vary this policy at any time. A reference to this policy in any document refers to this policy as amended from time to time.

1. Opal's commitment

Opal is proud to set high standards for acceptable workplace behaviour, over and above compliance with minimum legislative requirements. The high standards of behaviour set out in this policy are the shared responsibility of everyone who works for Opal, and reflect a shared commitment to respect, inclusiveness, safety and wellbeing.

Opal provides a safe and inclusive environment and encourages everyone working for Opal to promptly address any concerns about unacceptable workplace behaviour, regardless of whether they are a target of or a bystander to the behaviour.

Opal does not tolerate unacceptable workplace behaviour. Opal employees who engage in unacceptable workplace behaviour may be subject to disciplinary action, which may extend to termination of employment. Workplace Participants who are not Opal employees may be directed to cease having any further contact with Opal and/or cease performing any further work for Opal. In many cases, a breach of this policy may also amount to unlawful or criminal conduct under applicable legislation.

The standards of behaviour set out in this policy should be read in conjunction with Opal's Code of Conduct.

This policy should be read and interpreted in conjunction with any applicable legislation, Awards and collective agreements, and relevant provisions in individual employment agreements. This policy is not intended to be incorporated into individual or collective employment agreements.

2. Definitions

Who is a Workplace Participant?

For the purposes of this policy, **"Workplace Participants"** refers to:

- Opal employees;
- Labour Hire Workers, being individuals employed by a third party with which Opal has an agreement under which the individuals perform work for Opal's benefit; and
- Contractors, being individuals who perform work for Opal's benefit pursuant to the terms of an independent contractor/consultancy agreement or equivalent, either directly or as a subcontractor or employee of a subcontractor to the principal contractor.

What is considered Work Activity?

For the purposes of this policy, **"Work Activity"** refers to all conduct connected with Opal in Australia and New Zealand. This is a broad definition and includes not only conduct on Opal premises and during working hours, but also to conduct outside of the workplace and in personal time and when using personal technology and devices, where there is a connection to Opal. For example, Work Activity includes:

- conduct on Opal premises, whether during or outside of working hours, including in common areas, lifts, carparks, kitchens and bathrooms;
- conduct connected with performing duties for Opal, or example when work is being undertaken at customer or supplier sites and during work-related travel;
- conduct away from Opal premises which is connected with Opal, for example conferences and social events connected with Opal;
- conduct engaged in online, using technology or social media, using Opal equipment or networks, or using personal equipment or networks where such conduct has a connection to Opal, regardless of whether the conduct is engaged in during work time or personal time; and

- conduct towards others connected with Opal, not only other Workplace Participants, but also visitors to Opal as well as customers and suppliers.

3. Responsibilities

3.1. All Workplace Participants

It is the responsibility of each Workplace Participant to read this policy and understand the standards of behaviour that it sets. All Workplace Participants are required to comply with this policy at all times when undertaking Work Activity. This means:

- Behaving at all times in a manner consistent with Opal's Code of Conduct;
- At all times taking reasonable care for one's own health and safety, and for the safety of others who may be affected by their conduct, including both physical and psychological safety;
- Not engaging in, or directly or indirectly supporting, **inappropriate discrimination** (see heading 4.1);
- Not engaging in, or directly or indirectly supporting, **harassment** (see heading 4.2);
- Not engaging in, or directly or indirectly supporting, **sexual harassment** (see heading 4.3);
- Not engaging in, or directly or indirectly supporting, **bullying** (see heading 4.4);
- Not engaging in, or directly or indirectly supporting, **victimisation** (see heading 4.5); and
- Taking prompt and appropriate action upon suspecting or becoming aware of any unacceptable workplace behaviour (see heading 5.1).

A failure to meet these requirements will be considered **unacceptable workplace behaviour**.

In determining whether or not unacceptable workplace behaviour has occurred under this policy, it is not relevant whether or not the Workplace Participant who engaged in the behaviour **intended** to engage in unacceptable behavior.

It is also the responsibility of all Workplace Participants to create a safe and supportive environment in which individuals feel comfortable and empowered to raise concerns, whether they have been a target of alleged unacceptable workplace behaviour, or they are a bystander or a witness.

The role of bystanders is particularly powerful in addressing unacceptable workplace behaviour. "The standard you walk past is the standard that you accept."

3.2. People Leaders

Opal's People Leaders also play a crucial role in providing leadership in relation to acceptable workplace behaviour, by modelling acceptable behaviour and taking reasonable steps to ensure that unacceptable workplace behaviour does not occur within their teams. People Leaders also play an important role in ensuring that any potential unacceptable workplace behaviour within Opal is addressed promptly and appropriately.

3.3. Contact Officers

Employees appointed and trained as a Contact Officer play an important role in helping their teams understand and comply with this policy. Contact Officers are available to support individuals who have concerns regarding unacceptable workplace behaviour and provide guidance regarding resolution and reporting options.

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4. More information about unacceptable workplace behaviour

4.1. Inappropriate discrimination

Discrimination occurs when a person or group is treated less favourably than another, and includes both direct discrimination and indirect discrimination.

Discrimination is inappropriate when the discrimination is based on a protected attribute. For the purposes of this policy, the following are protected attributes.

- Race (including colour, descent or national or ethnic origin)
- Sex
- Marital status/relationship status/domestic partnership status
- Identity of spouse or domestic partner
- Pregnancy or potential pregnancy
- Breastfeeding
- Family/carer's responsibilities/parenthood
- Disability/impairment (including physical, intellectual or psychiatric)
- Genetic predisposition to disability
- Religion or religious belief or religious conviction
- Political opinion, belief, conviction, affiliation or activity
- Age
- Medical record
- Criminal record
- Spent conviction
- Sexual preference/sexual orientation/sexuality/intersex status/gender identity/ gender history/ transgender status
- Lawful sexual activity
- Trade union/ industrial activity
- Physical features
- Personal association with anyone who is identified by reference to any of the above protected attributes

Direct discrimination happens when a person, or a group of people, is treated less favourably than another person or group because of a protected attribute.
Example: Excluding a colleague from a team activity because they are "too old" is direct discrimination on the ground of age.

Indirect discrimination happens where a rule, requirement or practice is applied to everyone but has an adverse effect on people with a protected attribute, and that rule, requirement or practice is unreasonable.
Example: Requiring all team members to attend an out of hours training conference could have a potential adverse effect on those with family/carer's responsibilities or with a disability that impacts their working hours. Whether or not this amounts to indirect discrimination will depend on whether or not the requirement is "reasonable" in all of the circumstances.

Discrimination will not be considered inappropriate, and will not constitute a breach of this policy, where the discriminatory conduct is lawfully taken based on the **inherent requirements** of a particular job.
Example: Declining an overtime request because the employee has a medical certificate which limits the number of hours they can safely work due to a disability, and the overtime would exceed those hours.

4.2. Harassment

Harassment refers to unreasonable conduct which has no legitimate workplace function and which occurs in circumstances where a reasonable person would have anticipated that another person could be offended, humiliated or intimidated by the conduct. Harassment includes abusive, aggressive, violent and threatening behaviour.

Harassment can occur in a single act or repeated behaviour or conduct.

Examples of harassment include practical jokes, abusive language, threats to harm a person or their

family, and any form of unreasonable physical contact with another person (eg striking, throwing objects, pushing, tripping, grabbing).

Repeated instances of harassment may also amount to bullying.

Harassment may also amount to inappropriate discrimination if done on the basis of a protected attribute. *Examples: Telling racist or sexist jokes in the workplace.*

4.3. Sexual harassment

Sexual harassment refers to any unwelcome conduct of a sexual nature in circumstances where a reasonable person would have anticipated that another person would feel offended, humiliated or intimidated.

Sexual harassment takes many forms. It can be a one-off incident or a pattern of behaviour.

Conduct of a sexual nature can include a broad range of behaviour, including conduct engaged in verbally, physically or electronically. Conduct of a sexual nature may be overt, covert or subtle.

Overt forms of sexual harassment may be easier to identify but more subtle forms of sexual harrasment like sexist remarks and the use of crude language are still serious and will not be tolerated. These forms of sexual harassment can be just as harmful as overt forms of sexual harassment.

Some examples of conduct of a sexual nature include:

- *Jokes or pictures/cartoons/gifs of a sexual nature shared in person or via electronic means.*
- *Physical contact such as brushing up against a person, touching, hugging, massaging, patting, pinching or fondling, eg putting an arm around, a kiss hello, flicking bra straps, putting hands in a person's pocket.*
- *Inappropriate watching, staring or leering.*
- *Displaying sexual objects or calendars/posters of a sexual nature or giving as a gift.*
- *Requesting intimate images/videos.*
- *Sharing intimate images/videos.*
- *Sexually explicit or indecent emails, phone calls, text messages or online interactions.*
- *Asking questions or making comments about a person's sexual relationships or sexual practices.*
- *Requesting or inviting a person to engage in sexual activity.*
- *Innuendo, including sexually suggestive or provocative remarks, or inferences about sexual activity or performance.*

Workplace Participants who are in an intimate relationship with each other should be cautious about the manner in which they conduct themselves during Work Activity. While conduct towards an intimate partner may not be unwelcome, it may amount to sexual harassment of others who may witness that conduct and consider it to be unwelcome.

4.4. Bullying

Bullying refers to repeated, unreasonable behaviour directed towards a worker, or group of workers, which creates a risk to a worker's physical or psychological health and safety.

Unreasonable behaviour is behaviour that a reasonable person, having regard to all the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening. Behaviour may take many forms including verbal, physical and electronic.

Repeated behaviour does not require repeated instances of the same type of unreasonable behaviour. A pattern of behaviour involving a series of different types of unreasonable behaviour may constitute bullying.

Some examples of conduct which may amount to bullying include:

- *Repeatedly isolating or exclusing a person from a work team;*
- *Sabotaging another person's work;*
- *Interfering with a person's work equipment or personal belongings;*
- *Unreasonably criticising or ridiculing another worker;*
- *Using aggressive or abusive language or gestures/body language;*
- *Spreading rumours about a person or revealing sensitive confidential information about them (eg medical conditions) to others in the workplace;*
- *Making unreasonable comments about a person on social media.*

What does <u>not</u> constitute bullying?

Reasonable management action carried out in a reasonable manner does not amount to bullying.

Some examples of conduct which is reasonable management action and not bullying, include where supervisors or managers reasonably:

- *set performance goals, standards and deadlines;*
- *provide feedback on a worker's performance or conduct, including where this includes unsatisfactory work performance;*
- *direct, allocate and/or roster work;*
- *undertake performance management;*
- *investigate alleged unacceptable behaviour;*
- *undertake counselling or disciplinary action;*
- *implement organisational changes.*

4.5. Victimisation

Victimisation refers to adverse treatment of a person because they are, or could potentially be, involved in an allegation of unacceptable workplace behaviour under this policy.

It is a breach of this policy to victimise any complainant, alleged perpetrator, bystander, witness, support person or investigator.

Examples of victimisation include intimidating or isolating/excluding a person because of their involvement in an allegation of unacceptable workplace behaviour.

5. Opal's approach to alleged breaches of this policy

5.1. Options available in relation to suspected or alleged unacceptable workplace behaviour

The top priority for Opal and all Workplace Participants in addressing any alleged breaches of this policy is the safety, both physical and psychological, of everyone involved.

For the safety of all Workplace Participants, it is important that any suspected or alleged breaches of this policy are promptly raised.

While you are strongly encouraged to raise concerns early so that they can be addressed promply, Opal understands that individuals will share their experience when they feel comfortable and that it may take

time to process what has happened and feel ready to talk.

Consistent with Opal's values and with part 4.5 of this policy, you will not be treated adversely for raising concerns which you genuinely believe may amount to unacceptable behaviour under this policy.

What are your options for raising concerns?

If you have experienced or become aware of potential unacceptable behaviour, you have a number of options available to you, and you can choose how you feel most comfortable raising your concerns, including using multiple options.

You are encouraged to discuss potential options with someone you trust, such as a Contact Officer, a People Leader, or an HR or Safety Business Partner. Any of these people can talk to you about the resolution and reporting options and support available to you.

Your options include:

1. Raise the concern directly with the person: This option should only be used where you feel safe and comfortable to have the discussion. It could be done "in the moment" when conduct has just occurred, or at an appropriate later stage. The issue should be raised in a calm and respectful manner.
Examples: "Some people would be offended by comments like that, I would appreciate it if you didn't make them again"; "Your actions are making me uncomfortable, please don't do it again"; "Your behaviour towards our colleague just now came across very aggressive, you might want to cool off before talking next time you are feeling that way."

2. Report the concern to Opal:You can report concerns to Opal via one or more of the following options:

- You can report your concerns to an Opal People Leader;
- You can report your concerns to an Opal HR Business Partner;
- You can report your concerns to an Opal Safety Business Partner; and
- In some circumstances, you may prefer to tell Opal about the issue without being identified. You can do this by contacting the anonymous **Opal Workplace Behaviour Reporting Service** on:
    - 1300 546 138 for Australia
    - 0800 457 059 for New Zealand

  The **Opal Workplace Behaviour Reporting Service** will provide your report to Opal without disclosing your identity. Please note the Service cannot advise you on your concerns, and does not provide counselling support.

Refer to heading 5.2 below for information about how Opal will respond to a report.

3. Report the concern to an external authority: While Opal encourages Workplace Participants to report concerns internally, Workplace Participants may wish to seek assistance from an external body or authority with responsibility for dealing with such matters. In cases of potentially criminal conduct, Workplace Participants are encouraged to report the matter to the police.

5.2. How will Opal respond to a concern regarding unacceptable workplace behaviour?

Opal will take reasonable steps to support any Workplace Participant who believes they have experienced unacceptable workplace behaviour, and to consult with the person about their preferred approach to the process and outcomes arising out of the issue raised. Opal appreciates that most individuals who experience unacceptable workplace behaviour want the behaviour to stop, to have their experience validated and for it not to happen to anyone else.

Even where no report of unacceptable workplace behaviour is made, Opal can take steps to address

suspected or alleged unacceptable workplace behaviour identified through other means (eg IT system audits, review of CCTV footage, site cultural reviews, etc).

What are the potential next steps when an unacceptable workplace behaviour concern arises?

Opal will address the alleged unacceptable workplace behaviour in the manner that Opal considers most appropriate in all of the circumstances, having regard to the context, the preferred approach of any individuals who have raised concerns, the physical and psychological safety of the Workplace Participants involved, protecting confidentiality, any applicable legal requirements, the seriousness of the alleged conduct, and the potential consequences.

Based on these considerations, Opal may consider it appropriate to take action in some circumstances, even if the individuals who have raised concerns would prefer that no action be taken.Some examples of steps that Opal may take include some or all of:

- Undertaking training on this policy amongst the workgroup and/or specific individuals, including providing feedback on previous conduct;
- Reminding a workgroup about the free and confidential support offered by Opal's Employee Assistance Program ("EAP"):
- Facilitating a conversating between the Workplace Participants involved, to seek to resolve differences, which may include an apology and agreement on acceptable conduct moving forward;
- Working with the Workplace Participants involved to recover from the issue and rebuild relationships;
- Reviewing the workgroup and implementing targeted interventions such as surveys and further education;
- Arranging for an appropriate impartial investigator to formally investigate the allegations;
- Reporting the alleged conduct to an external body, eg the Police or a relevant regulatory body.

What if Opal decides that a formal investigation is an appropriate step?

If Opal decides that a formal investigation is appropriate, then:

- All participants in the investigation process, including individuals who have reported an issue, witnesses, and those subject to allegations, are required to maintain confidentiality;
- All participants in the investigation process are required to be honest and respectful during the investigation;
- Any person accused of unacceptable workplace behaviour will be afforded procedural fairness, meaning that the allegations against them will be explained and they will have an opportunity to respond before any conclusions are reached, and they can have an appropriate support person with them at investigation meetings;
- The investigation will be concluded as quickly as practicable, while ensuring the response is fair;
- Opal will communicate the outcomes of the investigation, as appropriate and while maintaining appropriate confidentiality, to any individuals who have reported an issue; and
- Opal may make temporary changes to working arrangements while an investigation is underway, which may include standing an employee down or adjusting location, timing or duties.

How will Opal treat information it holds relating to unacceptable behaviour?

Opal will treat all information it holds relating to potential or substantiated unacceptable behaviour with appropriate sensitivity and confidentiality in all of the circumstances. Where information used or collected under this policy is considered 'personal information' within the meaning of privacy legislation, Opal will ensure it complies with relevant legislation where applicable, including secure storage of personal information.

5.3. What are the potential consequences of engaging in unacceptable workplace behaviour?

Opal employees who engage in unacceptable workplace behaviour may be subject to disciplinary action, which may extend to termination of employment.

Workplace Participants who are not Opal employees may be directed to cease having any further contact with Opal and/or cease performing any further work for Opal.