

# adaptalift **GROUP**

Policy

## **Discrimination, Bullying and Harassment**



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[www.adaptalift.com.au](http://www.adaptalift.com.au)



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## DOCUMENT PURPOSE

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This policy sets out the equal employment opportunity and anti-bullying guidelines for employees, prospective employees and contractors of the Adaptalift Group. The policy is consistent with the Adaptalift Group's values, principles of fairness, equity and the pursuit of sustainable success, and conforms to the spirit and intent of anti-bullying, harassment, equal opportunity and anti-discrimination legislation.

For the purpose of this policy, "Adaptalift Group" refers to all entities that are part of the Adaptalift Group of Companies, including (without limitation) Adapt-A-Lift Group Pty Ltd, Moduware Pty Ltd, Speedshield Technologies Pty Ltd, Adaptalift GSE Pty Ltd, Adapt Capital Pty Ltd and Peter Charles Investments Pty Ltd and the Associated Entities and/or Related Bodies Corporate (as those terms are defined in the *Corporations Act 2001*) of these entities.

## INTENDED AUDIENCE

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This document is primarily intended to provide instructions and information for people who perform the following roles, from both a systems and process perspective:

- Managers and supervisors
- Employees
- Contractors
- Human Resources

## DOCUMENT CONTROL

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This document is regularly updated to reflect current work practices. It supercedes all previous versions. Please refer to the online copy of this document on the respective Adaptalift Group company's intranet site to ensure you are reviewing the current procedures. Any offline or printed copies are considered as uncontrolled and potentially out of date.

Release Date	Date of Last Amendment	Reason for Amendment
30 April 2021	N/A	Official release

## PROCEDURAL CHANGES

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In order to maintain our best practice approach, any feedback or suggestions for the improvement of any company policies and procedures is welcomed.

To request a change to a form, report or procedure, complete the Request for Forms or Procedural Change form and forward to the Business Manager for approval. All changes will be communicated with each Company as they occur.

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## **ADAPTALIFT GROUP COMMITMENT**

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### **POLICY STATEMENT**

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The Adaptalift Group is committed to ensuring that employees work in an environment where people are treated with mutual respect, which is important for a productive and harmonious workplace where people are aware of the impact of their behaviours on others.

The Adaptalift Group will not condone behaviour nor create policies and procedures that directly or indirectly allow a person to be treated unfairly.

The Adaptalift Group will be mindful of the need to avoid unnecessary and artificial barriers that may create inequity in the workplace.

The Adaptalift Group will hire the person who has the most merit assessed on inherent requirements of the position.

Performance appraisal and promotion will be based on objective and measurable assessment.

All Adaptalift Group activities will be conducted without discrimination, victimisation, bullying or harassment.

It is the Adaptalift Group's objective that employees are motivated to observe this policy because of a genuine understanding of the issues.

### **COMMUNICATION**

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All new employees will be given a copy of this policy before commencing work at the Adaptalift Group.

A record will be kept by Human Resources verifying the receipt of a copy of this policy.

Existing employees are able to access this policy on the intranet and shall be given a copy of this policy, with the contents discussed and any uncertainties explained.

### **FAILURE TO COMPLY**

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Discrimination, bullying, harassment, and victimisation is illegal. Such behaviour is prohibited by both State and Federal legislation. The Adaptalift Group considers such behaviour as inappropriate and unacceptable and it will not be tolerated.

Employees who are found to have breached this policy will face disciplinary action, which may include dismissal.

All employees have a responsibility to comply with this policy and to model appropriate behaviour and promote a climate of mutual respect. Employees will be personally liable for discriminating against, bullying, harassing or victimising another person.

A manager may be personally liable if they ignore, condone or take no action to stop or prevent discrimination, bullying, harassment, and victimisation from occurring.

## DISCRIMINATION

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Discrimination means treating someone unfairly or unfavourably because of a personal characteristic. Discrimination can also be setting a requirement that people with a particular characteristic cannot meet and which is not reasonable.

The Adaptalift Group and its employees will treat all people fairly and equally regardless of their:

- age
- breastfeeding
- carer status
- disability/impairment
- gender identity
- industry activity
- irrelevant criminal record
- lawful sexual activity
- marital status
- medical record
- parental status
- physical features
- political belief or activity
- pregnancy
- race, colour, ethnic or ethno-religious background, descent or nationality
- religious belief or activity
- sex
- sexual orientation
- social origin
- assists or has assisted, or gives or has given information to an “authorised representative of an employee organisation”
- raises or has raised a health and safety issue or concern to the employer, an inspector, a Health & Safety Representative or a member of a Health & Safety Committee
- or personal association with someone who has, or is assumed to have, one of these personal characteristics

Processes of employment selection, training, job design, performance assessment and promotion shall be assessed on merit and be free of artificial barriers and limitations.

## **BULLYING**

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Bullying is repeated unreasonable behaviour directed toward an employee, or group of employees, that creates a risk to health and safety. Whether it is intended or not, bullying is not appropriate, unacceptable and will not be tolerated.

Bullying usually occurs inside a workplace, for example, one employee may bully another employee, or a group of employees may bully an individual. Customers, clients and contractors may also bully employees.

## **EXAMPLES OF BULLYING**

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This list is not exhaustive and other behaviours may be bullying:

- Demeaning language or verbal abuse
- Threats, physical or verbal intimidation
- Outbursts of anger or aggression
- Excluding or isolating employees
- “Ganging up” on an employee
- Giving employees impossible assignments
- Deliberately changing work rosters to inconvenience particular employees
- Deliberately withholding information that is vital for effective work performance

## **WHAT ISN'T BULLYING**

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Reasonable management actions carried out in a fair way, such as:

- Setting performance goals, standards and deadlines
- Rostering and allocation of working hours
- Deciding not to select an employee for promotion
- Informing an employee about unsatisfactory work performance
- Informing an employee about inappropriate behaviour
- Implementing organisational changes
- Performance management process

## HARRASSMENT

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Processes of employment selection, training, performance of duties, performance assessment, promotion and termination shall be free of sexual and workplace harassment.

Sexual harassment and workplace harassment are prohibited at the workplace and at any work related function, even if it is outside normal work hours. Such conduct can come from a supervisor, manager, a client, a supplier, a contractor or a fellow employee.

Bullying usually occurs inside a workplace, for example, one employee may bully another employee, or a group of employees may bully an individual. Customers, clients and contractors may also bully employees.

## SEXUAL HARRASSMENT

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Sexual harassment, for the purposes of this policy without prejudice to other possible interpretations expressed in statute or common law, is:

*Any unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature which a reasonable person would have anticipated would offend, humiliate or intimidate someone.*

*Sexual Harassment can include conduct like pressure or demands for dates or sexual favours, inappropriate familiarity, leering, display or circulation of sexual material, unwanted physical contact, sexual jokes or innuendo, unwelcome comments or questions about a person's sex life, name-calling, offensive sexual gestures, offensive phone calls and emails.*

## WORKPLACE HARRASSMENT

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Workplace harassment, for the purposes of this policy without prejudice to other possible interpretations expressed in statute or common law, is:

*Any uninvited, unwelcome behaviour that disturbs, offends or intimidates the other person subject to it.*

*Workplace Harassment may or may not relate to any of the attributes of a person as set out in the discrimination clause of this policy.*

*Workplace Harassment includes behaviour such as verbal or written abuse, bullying, belittling or other threatening behaviour.*

## VICTIMISATION

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Employees should feel that they are able to make a complaint without fear that they are jeopardising their future employment prospects and without fear of retribution.

Victimisation of a person, or another associated with a person, who has made or proposes to make a complaint of harassment, discrimination or bullying is unlawful and will not be tolerated. A person who feels that they have been victimised is entitled to lodge a complaint under this policy.

Managers are required to take active measures to prevent victimisation where one or more of their employees are engaged in a dispute resolution process.

Persons who are found to have engaged in the victimisation of another will be subjected to disciplinary action.

## COMPLAINTS PROCEDURE

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This section should be read in conjunction with Adaptalift's **Whistleblower Policy**. Any complaint – either by yourself or on behalf of someone else – can also be made under the **Whistleblower Policy** in addition to or instead of the procedure below. Regardless of whether the complaint is made under this policy or under the **Whistleblower Policy**, Adaptalift is committed to support, investigate and report on any complaint and to otherwise follow the procedures set out in this policy and the **Whistleblower Policy**.

Employees should feel that they are able to make a complaint without fear that they are jeopardising their future employment prospects and without fear of retribution.

Victimisation of a person, or another associated with a person, who has made or proposes to make a complaint of harassment, discrimination or bullying is unlawful and will not be tolerated. A person who feels that they have been victimised is entitled to lodge a complaint under this policy.

Managers are required to take active measures to prevent victimisation where one or more of their employees are engaged in a dispute resolution process.

Employees may deal with bullying, harassment, discrimination or victimisation either by resolving the issues themselves by discussing the problem with the person involved, or by seeking assistance from their manager or Human Resources.

It is important that you do not ignore circumstances where you feel you are being bullied, harassed, discriminated against and/or victimised thinking it will go away. Ignoring the behaviour could be wrongly interpreted as approval of the person's behaviour.

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

- If you can, 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 Human Resources.

If you do make a complaint about bullying, harassment, discrimination and/or victimisation you are responsible for ensuring that you:

- Make the complaint honestly and in good faith;
- Provide all the facts relevant to the complaint; and
- Co-operate with the investigation and resolution processes.

The Adaptalift Group may not assist you to deal with a complaint of bullying, harassment, discrimination or victimisation where:

- The complaint has been satisfactorily dealt with or resolved previously (unless another incident has occurred since).
- The complaint is made anonymously without sufficient detail being provided so as to allow investigation or resolution of the matter.
- The complaint is frivolous, vexatious or malicious, for example where false or misleading information is provided, relevant information is withheld, facts are distorted or there is no demonstrated commitment to resolution. (Note: Depending on the circumstances, these types of complaints could lead to disciplinary action including dismissal action being taken against the person making the complaint).
- The complaint does not constitute discrimination, bullying, harassment and/or victimisation as defined in this policy.

If you observe an incident in which another employee is being bullied, harassed, discriminated against and/or victimised bring it to the attention of your manager.

If a complaint of bullying, harassment, discrimination and/or victimisation has been made about you, you are responsible for ensuring that you:

- Cooperate with the investigation and resolution processes;
- Provide a written or verbal response to the complaint which has been made; and
- Provide all relevant facts to the person conducting the investigation.

## **CONFIDENTIALITY**

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Anyone involved in a complaint of discrimination, bullying, harassment and/or victimisation, 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 employees 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.

## MANAGEMENT RESPONSIBILITY

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If an employee brings an allegation of bullying, harassment, discrimination and/or victimisation to your attention:

### Do not

- Ignore the complaint;
- Tell the employee making the complaint that they have to sort it out themselves;
- Make a judgement about whether the complaint is true or not;
- Say that the employee should put up with the behaviour;
- Talk to anyone about the issue except those involved in the investigation and resolution of the complaint; or
- Prejudge the merits of the complaint.

### Do

- Behave consistently with this policy;
- Resolve the complaint as quickly as possible;
- Be sympathetic, sensitive and serious; the complaint is obviously serious to the person making it;
- Enquire into the matter and attempt to resolve it as soon as possible; and
- Take preventative measures in the workplace (e.g. employee education).

### Manager's action steps

- Notify Human Resources immediately;
- Document the complaint; and
- In discussion with Human Resources, determine who should investigate and, if possible, mediate the complaint.

## INVESTIGATION AND MEDIATION

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Investigation of the complaint of bullying must commence within two working days of receipt of the complaint.

The Manager (or their designate) together with Human Resources, determine who is the appropriate person to investigate the complaint.

### *Role and Responsibilities of Investigator*

The investigator must be someone who is impartial, and who has been trained to conduct investigations. This person may need to be sourced from outside the organisation.

The investigator must speak to the parties involved, and all witnesses if any. The investigator must report on whether or not the complaint has been substantiated and the proposed action to be taken in response.

The investigator must document all findings and outcomes, and keep detailed notes of conversations including messages left.

The investigator must keep the complainant, and the person against whom allegations were made, informed of progress. This should be done in the form of written memos.

### ***Mediation***

Mediation should be the first consideration in resolving complaints of discrimination, bullying, harassment and/or victimisation. This form of dispute resolution is appropriate only if the person making the complaint agrees.

The appropriate action, based on the findings of the investigation, must be undertaken promptly. Such action may include:

- An apology
- Changes to work practices
- Disciplinary action
- Training
- Notes placed in personnel file etc.

### ***Investigator's discussion with the complainant***

- Determine whether an interpreter is required.
- The complainant may bring a support person with them.
- Arrange an appropriate venue to meet with the complainant. The venue should be private and free of interruptions, and wherever possible put the complainant at ease. The venue must be conducive to maintaining confidentiality.
- Allocate enough time to discuss the complaint in full.
- Explain how the investigation process is conducted, and the possible outcomes.
- Advise the complainant that the matters discussed are confidential, and that the complainant must only discuss the issue with those persons investigating the complaint, or who are formally supporting them through the process.
- Obtain a broad outline of the complaint, followed by a detailed description of what is alleged to have happened, when it is alleged to have happened (including dates and times), where it is alleged to have happened and by whom. Obtain and record all relevant facts.
- Ask the complainant whether there are any witnesses, or other evidence that supports their version of events. Record the names of any witnesses to the alleged bullying, harassment, discrimination and/or victimisation and obtain copies of any documentation provided to support the allegations. Advise the complainant that witnesses will be interviewed, and that the complainant should not speak to the witnesses about the issues.
- Explain any other action that will be taken, e.g. speaking to the respondent.

- Ask the complainant what they want done in regard to the alleged bullying, harassment, discrimination and/or victimisation. It is at this point that mediation should be offered as a means of resolving the complaint. If mediation is accepted, the mediation should be arranged to occur as soon as possible.
- Counselling should be offered to the complainant. If accepted, this may be arranged through the Employee Assistance Program (EAP) provider.
- Advise the complainant when they can expect to be advised of an outcome to their complaint.

***Investigator's discussion with the person about whom the complaint is made***

- Determine whether an interpreter is required.
- The respondent may bring a support person with them.
- Arrange an appropriate venue to meet with the respondent. The venue should be private and free of interruptions, and wherever possible put the respondent at ease. The venue must be conducive to maintaining confidentiality.
- Allocate enough time to discuss the allegation(s) in full.
- Explain to the respondent your role in the investigation of the complaint against them, and that it is important that their version of events is obtained.
- Advise the respondent that the matters discussed are confidential, and that the respondent must only discuss the issue with those persons investigating the complaint, or who are formally supporting them through the process.
- Explain to the respondent exactly what it is that they have been accused of saying or doing, including names, dates, times and locations.
- Provide the respondent with a written memo stating the allegations.
- Ask the person to respond, either verbally or in writing, to the allegations.
- Take notes of the respondent's version of events. Obtain and record all relevant facts.
- Ask the respondent whether there are any witnesses, or other evidence that supports their version of events. Record the names of any witnesses, and obtain copies of any documentation. Advise the respondent that witnesses will be interviewed, and that the respondent should not speak to the witnesses about the issues.
- If the allegations are denied, ask the respondent if they can think of a reason why these allegations have been made.
- Ask the respondent what they believe may resolve the matter.
- Inform the respondent that they must not victimise or bother the complainant in any way. Doing so will result in immediate action against them, e.g. being stood down pending the outcome of the investigation.
- Counselling should be offered to the respondent. If accepted, this may be arranged through the Employee Assistance Program (EAP) provider.
- Advise the respondent when they can expect to be advised of an outcome of the investigation.

***The outcome***

- Determine whether or not the allegations are substantiated, or whether there is insufficient evidence or information to make a conclusion. Record in writing your conclusions, and the reason for them.
- If alleged discrimination, bullying, harassment and/or victimisation complaints are substantiated, there may be a basis for disciplinary action against the person responsible. If termination of employment is appropriate, this must comply with unfair dismissal laws.
- If the allegations of discrimination, bullying, harassment and/or victimisation are unsubstantiated, ensure that there is no action taken against the person whom the complaint was made, and that no notes about the complaint are retained in their personnel file.
- If there is insufficient information to make a determination in regard to an allegation of discrimination, bullying, harassment and/or victimisation, the report notes should be kept securely in the Human Resources department, and no action is to be taken against either party.
- Advise the complainant and the person about whom the complaint was made of the investigation findings and actions. If the allegation is substantiated, action will include a written record of the investigation being placed in the perpetrators personnel file.
- Provide a written summary to the Group HR Manager.

**SUPPORT PERSON**

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An employee may have a support person present during the complaints process. However, given the sensitive and confidential nature of such proceedings, the Adaptalift Group retains the right to refuse participation of a third party if determined their involvement will compromise the process. In such a case, the employee will be given the opportunity to have an alternative representative present.

**RECORD KEEPING**

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Records of all complaints, informal and formal, will be kept by Human Resources in a confidential location separate to employee personal files.

**FURTHER INFORMATION**

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Please contact your manager or Human Resources if you require additional information in relation to this policy.