Harassment, Discrimination and Workplace Bullying (HDB) Policy

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1 Policy Statement

National Jet Express Pty Ltd (**NJE**) strives to promote a safe working environment by endeavouring to eliminate Harassment (including sexual harassment), Discrimination and Bullying (including victimisation) (HDB) from the workplace.

NJE personnel must not engage in behavior that constitutes HDB towards another member of staff or a member of the public with whom they have contact in the course of their employment. NJE takes a firm view of such matters and has a zero tolerance of such behavior and actions in the workplace.

2 Application

This policy applies to all NJE personnel (including permanent and casual staff, volunteers, contractors, including contracted airport agents and their staff and consultants).

The provisions in this policy may be altered, varied or replaced at NJE's sole discretion and do not create any contractual or other rights or benefits for any NJE personnel.

3 Legal Framework and Legislation

HDB in the workplace all constitute offences under various Commonwealth and State anti-discrimination, workplace health and safety (WHS) and workplace laws. Relevant legislation includes the Sex Discrimination Act 1984 (Cth) at the Commonwealth level and the anti-discrimination acts and workplace health and safety acts in each State.

This policy has been drafted in accordance with Commonwealth and State legislation with respect to HDB. If you would like detailed information regarding the relevant and applicable legislation, please contact NJE's Human Resources Department.

NJE has a responsibility under Workplace Health and Safety Legislation in each State and Territory (WHS Legislation) to ensure the health, safety and welfare of staff and others in the workplace. Individual staff members may be liable to prosecution under the WHS Legislation for failure to provide a safe workplace. HDB may result in injury to staff, which may be compensable under applicable Workers Compensation Legislation.

4 Breaches

NJE personnel must observe and comply with this policy, and the legislative requirements which support it.

Engaging in conduct that amounts to HDB in the workplace or a work-related environment constitutes a breach of this policy and may result in disciplinary action up to, and including, termination of employment or in the case of consultants or contractors, termination of contract.

In some instances, HDB may also amount to a criminal offence or a breach of relevant Commonwealth and/or State legislation.

5 Responsibility of the Company

NJE is committed to:

- ensuring that all NJE staff and managers are aware of their obligations under the NJE HDB policy;
- providing a work environment that has, as far as practicable, no HDB through good policies and processes, education and vigilant surveillance by management;
- prompt, thorough and fair investigation into all complaints of HDB raised;
- providing a safe environment for complainants immediately after a complaint is raised and during and after investigations;
- ensuring that complainants are not victimised;
- ensuring that the resolution of the complaint results in an outcome where the complainant is no longer subject to the alleged HDB;
- disciplining perpetrators of HDB as it sees fit.

It is important to understand that despite NJE taking all reasonable steps to prevent HDB issues arising, NJE cannot control the behavior of all of its employees, all of the time. Individuals are responsible for actions which are contrary to this policy and should be aware that if they conduct themselves in a manner contrary to this policy, then they may be personally liable under State and Federal criminal and civil laws.

NJE will not generally provide a complainant with the detail of any disciplinary action taken against another employee as a result of a HDB complaint, or with notes, correspondence or reports prepared as part of NJE's investigations.

6 Definitions

6.1 Harassment

Harassment is any form of behaviour that is not wanted, not welcome, unreciprocated and that is likely to create a hostile or uncomfortable work environment by seriously offending, humiliating or intimidating a person for any reason.

Harassment can be:

- explicit or implicit;
- physical, spoken or written; and/or
- a singular act or a series of incidents that occur over a period of time.

Harassment does not require intent for the behaviour to be deemed as harassment. Examples of behaviour that can constitute harassment include, but are not limited to:

- making and/or circulating offensive or disparaging remarks to or about staff about their work or capacity for work, personal life, absences, or claims for compensation;
- destructively criticising or undermining staff publicly or privately;
- persistently disrupting someone's work, work station, equipment or property;
- teasing or regularly making a staff member the victim of pranks;
- starting, spreading or failing to stop gossip about staff;

- giving unwelcome gifts;
- displaying offensive pictorial or written material on walls, computer screen savers or elsewhere, or circulating it electronically;
- stalking within the workplace, or to and from work, or outside the workplace.

Harassment can also constitute discrimination and / or bullying.

As perception of harassment is highly subjective and as a person engaging in harassment may not have intended to harass and may be unaware of the effect of their action or how it is perceived, NJE will adopt a "reasonableness" test when investigating harassment allegations that are reported for the first time.

A staff member who believes himself or herself to be a victim of harassment is strongly encouraged to initiate the Complaint Handling Procedure at the first instance they feel harassed. NJE cannot deal with issues that it is not aware of and cannot be expected to be responsible for ongoing harassment that it has had no opportunity to deal with because no complaint had been made. NJE cannot be expected to be responsible for the consequences of any delay or failure to report a HDB issue.

6.2 Sexual Harassment

Sexual harassment is unwelcome conduct of a sexual nature that could reasonably be expected to offend, humiliate or intimidate a person. In determining whether sexual harassment has occurred it is the effect of the behaviour on the recipient that is relevant, and not the intent of the perpetrator. As such, sexual harassment (like harassment) does not require intent for the behaviour to be deemed as sexual harassment.

Sexual harassment can be:

- explicit or implicit;
- physical, spoken or written; and/or
- a singular act or a series of incidents that occur over a period of time.

Examples of behaviour that can constitute sexual harassment include, but are not limited to:

- unwelcome sexual advances or unwelcome requests for sexual favours;
- uninvited sexual or unnecessary physical contact including touching, brushing up against someone, hugging, slapping and kissing;
- sexually suggestive behaviour (including, wolf whistling, staring or leering in a sexual manner);
- comments about a person's anatomy, private life or the way they look;
- persistent demands for participation in social activities or repeated requests for dates;
- displaying or circulating pornographic, sexist and/or sexually explicit material in the workplace including placing material in staff's work station or belongings, or on a computer (for example, screen savers or calendars) or fax machine;
- sexually explicit written, telephone or electronic communications, including text messages or posts on social networking sites;
- intrusive questions about staff member's sexual activity (including asking about a person's private life, making explicit sexual suggestions, and requests for sex);
- sexually explicit phone calls, written messages, emails or text messages;

- jokes, comments or insinuations of a sexual nature;
- misuse of a position to gain sexual favours from staff;
- indecent exposure; and
- sexual assault and rape.

Sexual harassment is against the law, wherever and whenever it occurs, including the workplace or in any work related environment including social functions, conferences, office social gatherings, business trips and between colleagues outside of work but in a work-related environment.

As perception of sexual harassment is highly subjective and as a person engaging in sexual harassment may not have intended to sexually harass and may be unaware of the effect of their action or how it is perceived, it is of utmost importance that a staff member who believes himself or herself to be a victim of sexual harassment initiates the Complaint Handling Procedure at the first instance they feel harassed. NJE will adopt a "reasonableness" test when investigating sexual harassment allegations that are reported for the first time.

6.3 Discrimination

Discrimination occurs when an individual or group is treated, or proposed to be treated, less favourably because of a Protected Attribute. Discrimination can be direct or indirect:

- *Direct discrimination* occurs when an individual or group is treated less favourably because of a particular Protected Attribute than persons without that attribute are, or would be, treated in the same or similar circumstances. This would include, for example, any workplace decision that produces an unfair result based on a particular Protected Attribute.
- *Indirect discrimination* occurs where a person imposes, or proposes to impose, an unreasonable requirement, condition or practice that has, or is likely to have, the effect of disadvantaging people with a particular Protected Attribute. This would include, for example, where the outcome of a decision unfairly or disproportionately impacts on people who possess a particular Protected Attribute.

It is also unlawful to discriminate against someone on the grounds of their association with someone who has, or is assumed to have, a Protected Attribute.

The following are examples of Protected Attributes under Federal and/or State legislation. Not all attributes are protected in each State. Please contact NJE Human Resources if you would like more information on the Protected Attributes applicable in your State:

Sex	Age	Pregnancy
Parental Status	Relationship / Marital Status (including identity of spouse)	Race (including colour, nationality, ethnicity and ethnic origin)
Disability or Impairment (including in relation to an assistance animal)	Breastfeeding	Sexuality / Sexual Orientation / Gender Identidy / Lawful Sexual Activity
Family Responsibilities	Political Belief or Activity	Religious Belief or Activity (including religious appearance or dress)
Social Origin	Trade Union / Industrial Activity	Irrelevant criminal record / Irrelevant spent conviction / Irrelevant medical record

Carer / Family Status	Employment Activity (including raising concerns about rights or entitlements at work) / Profession, trade, occupation or calling	Physical Features

Examples of discriminatory conduct include, but are not limited to:

- not offering weekend overtime to staff on the assumption of their family commitments;
- not properly considering the potential of job applicants because of their ethnic origin;
- not properly considering the potential of job applicants because of their disability;
- not properly considering the potential of job applicants because of their sex, marital status or because they are pregnant; and implementing action which only makes training opportunities available to full-time staff.

6.4 Workplace Bullying

Workplace bullying is a form of harassment. Workplace bullying is repeated behaviour directed towards a person or a group of persons that is intimidating, insulting, offensive, degrading, demeaning, humiliating or abusive. 'Repeated' refers to the persistent or ongoing nature of the behaviour, not the specific type of behaviour, which may vary. Workplace bullying can be physical or psychological and it creates a significant risk to health and safety in the workplace.

Examples of behaviour that can constitute bullying include, but are not limited to:

- aggressive or violent behaviour including written, verbal or emotional or physical abuse, threats or actual assault on another person or property (including yelling, screaming, swearing or abusive language);
- physical intimidation, physical assault or threatened physical assault;
- humiliating someone through gestures, sarcasm, criticism or insults;
- abusive, belittling or intimidating phone calls, emails, notes or text messages;
- deliberately excluding someone from relevant workplace activities or functions (including ignoring or 'ganging up' on someone);
- engaging in initiation rites or practical jokes which have the potential to physically harm, belittle or humiliate;
- continually criticising someone about minor, irrelevant or insignificant matters;
- undermining a person's position;
- interfering with someone's personal property or work equipment;
- behaviour or language that frightens, ridicules, humiliates or degrades;
- abuse of management or supervisory power such as inappropriate or unreasonable punishment or criticism of someone's work or behaviour; and
- victimising someone because that person has made a complaint, is proposing to make a complaint, has helped someone else make a complaint and/or is acting or acted as a witness to a complaint.

A single incident of workplace harassment may not necessarily constitute workplace bullying, although it may be distressing or harmful to the targeted staff and will not be tolerated. A single incident of harassment may be a warning sign for bullying.

6.5 Victimisation

Victimisation occurs where a person subjects, or threatens to subject, another person to detriment due to that person objecting to the discriminatory manner in which they have been treated or being associated with a complaint, including because that person has made, is proposing to make, has helped someone else make, is party to, or is acting/acted as a witness to a complaint. Victimisation is considered an unacceptable form of behaviour.

6.6 Workplace

The definition of workplace includes, but is not limited to:

- All NJE worksites;
- Public areas such as airports where NJE activities with staff or contractors take place. This may include on transport provided by the Company to and from airports or other places of work;
- Conferences, training days and off-site functions including Christmas parties and other work-related social events.

7 Responsibility of the Company

Federal and State legislation provides responsibilities to staff, current and potential, and to employers. Everyone has the responsibility to report and/or prevent harassment, sexual harassment, discrimination, workplace bullying and victimisation.

7.1 MC, Managers and Supervisors

The Management Committee, Managers and Supervisors have a leadership role in modelling acceptable workplace behaviour and are responsible for:

- endeavouring to ensure as far as practicable that the workplace is free from HDB;
- endeavouring to take all reasonable steps to prevent these behaviours;
- taking all reasonable and proportionate steps to ensure that all staff are aware of, and understand, their responsibilities under this policy;
- monitoring their staff's direct working environment to determine if acceptable standards of conduct are being observed;
- aiming to take prompt and timely action to deal with suspected cases of HDB;
- endeavouring to take prompt and timely action to implement any actions or recommendations arising from the outcomes of investigations or disciplinary action;
- notifying the Management Committee when a complaint is made as soon as reasonably practicable, irrespective of what complaint handling procedure is followed in accordance with this policy;
- appropriately dealing with any complaints made in accordance with this policy;
- ensuring that staff who raise an issue or make a complaint are not victimised for doing so and respecting the staff's privacy rights; and
- referring staff to the Employee Assistance Programme (EAP) where appropriate.

The Management Committee, Managers and Supervisors have:

- the right to control, direct and monitor work performance; and
- the right to performance manage staff, including giving legitimate comment on performance or work related behaviour and to take disciplinary actions against staff who breach any Company rules and regulation.

7.2 All Staff

All staff are responsible for:

- understanding and being familiar with their responsibilities and required actions under this policy;
- not participating in, nor condoning conduct that constitutes HDB in respect of other individuals (staff or otherwise);
- immediately ceasing any unwelcome behaviour or action towards other staff, when asked to do so;
- reporting behaviour that may qualify as HDB regardless of whether they are the direct victim or not; and
- respecting the confidentiality of complaint handling procedures and maintaining confidentiality if involved in an investigation of an alleged HDB. This is both during the investigation and the investigation has concluded.

8 What is not Harassment, Sexual Harassment, Discrimination or Workplace Bullying?

Discrimination does not include employment rules that are specific and necessary to the job scope like height restrictions or medical renewal requirements based on age.

Harassment does not include:

- mutually acceptable behaviour;
- reasonable management of staff's performance or conduct including as set out below in relation to workplace bullying; and/or
- the legal enforcement of Company rules and regulations.

Sexual harassment does not include:

- behaviour that is based on mutual attraction or friendship. If the interaction is welcome, invited, reciprocated or consensual it is not sexual harassment; and/or
- a manager performance-managing staff or a manager advising staff that their conduct is not appropriate.

Workplace bullying does not include:

- fair and appropriate supervisory or management instructions delivered in a fair and appropriate manner;
- a manager, performance managing staff, or a manager advising staff that their conduct is not appropriate; and/or
- the legal enforcement of Company rules and regulations.

For example, workplace bullying is not:

- asking somebody to turn up for work or to do their job;
- setting workplace goals and standards, including work deadlines;
- counselling staff about absenteeism or failing to notify absence from work;
- requesting staff to carry out a reasonable lawful directive even if they do not agree with the task or the request;
- feedback at work; or
- counselling and disciplinary processes for staff's behaviour or work performance.

9 Complaint Handling Procedures

NJE endeavours to deal with any breaches of this policy in a prompt, confidential and fair way and to ensure that all staff are provided with a safe environment from the moment the complaint is raised.

NJE recognises the gravity of such matters and, in circumstances where NJE considers it necessary, complaints will be investigated and reported to the relevant Management Committee or to the Group Chairman if a member of the Management Committee is implicated. All complaints should only be discussed with those who are involved in the resolution of the matter, irrespective of what process is followed to resolve the matter.

All staff could avail themselves of external channels of complaints such as the Australian Human Rights Commission or the relevant discrimination authority in each State. However, it is a requirement for all staff to first lodge a complaint with the Company prior to seeking external intervention.

9.1 Self Resolution

Where appropriate, it is expected that as a first step, staff seek to resolve the matter informally between themselves. Staff who believe that they may be experiencing harassment, sexual harassment, discrimination and/or bullying are encouraged to raise the issues or behaviours with the relevant parties concerned and to resolve the issue directly.

This process may include:

- arranging a meeting with all relevant parties to identify the nature of the complaint and its effect on the complainant;
- agreeing on a resolution of the complaint, if possible; and
- ensuring a record (note) of this conversation is kept by the complainant.

Throughout this process, it is important that staff make it clear to the relevant parties concerned that their behaviour is inappropriate, unwelcome and unwanted.

Where this is not appropriate or does not result in a satisfactory resolution, staff can proceed to make an informal or formal complaint.

9.2 Informal Complaint Processes

Staff may seek information, advice, support or assistance from their supervisor or from HR in relation to their options for complaint resolution and for assistance with facilitating a resolution with the relevant parties.

In the event that the supervisor is the alleged offender, staff may take the issue directly to their supervisor's manager or a member of Management Committee in order to resolve the situation. The Management Committee ought to be notified of all complaints as soon as reasonably practicable.

Appropriate outcomes may include (but are not limited to):

- an apology and cessation of the behaviour by the alleged offender;
- understanding by the individual(s) concerned that further instances may be the subject of more formal disciplinary processes;
- understanding across the workplace that certain types of behaviour are unacceptable and how certain types of behaviour may offend other staff members or persons in the workplace;
- greater understanding between the relevant parties about language or behaviour to ensure that offence is unlikely to be given or taken in future; or
- group or individual counselling.

In some situations, it may be necessary to go beyond such outcomes and consider the following:

- physically relocating some or all of the concerned individuals. It is important that such an outcome does not focus on moving only the complainant; this is in effect a punishment of the aggrieved person and is only appropriate when that is the desired outcome of that person;
- seeking and obtaining external assistance in changing the cultural norms of the work area;
- taking disciplinary action against the alleged offender; or
- introducing a new supervisor.

If the complainant is satisfied with the outcome of the informal process, they should inform their supervisor in a timely manner so that normal working relationships can resume.

An individual's choice to use the informal process does not preclude management, if deemed appropriate, from pursuing disciplinary action against the alleged harasser.

Benefits of the Informal Complaint Process include:

- it allows the case to be addressed without an individual necessarily being labelled as a troublemaker (the complainant) or as a harasser (the person against whom harassment has been alleged). This is particularly important where the behaviour was unintentional or misguided;
- it allows individuals concerned to take positive action themselves to correct or alter behaviour;
- it allows management to develop preventative measures throughout a work area without attributing blame to any person. This can be important when the harassment is the result of group behaviour or when what has been regarded as 'normal' behaviour in the work area is perceived as harassment by someone new to the area;
- it allows for a focus on establishing working relationships based on a clear understanding of what is regarded as acceptable behaviour and what is not.

9.3 Formal Complaint Process

If the issue is serious and/or cannot be resolved by the relevant parties themselves or via the Informal Complaint Process, the complainant may choose to lodge a formal, written complaint with the HR Department, Management Committee or the Group Chairman.

The complaint should be made using the Complaint Lodgement Form set out at Schedule 1, and will need to include an outline of the complaint and as much detail as possible. In all cases the Management Committee must be notified, as soon as reasonably practicable, when a complaint is received by the HR Department.

Once a formal, written complaint has been made, the following procedure will generally apply:

- the matter will be referred to the complainant's supervisor or to the applicable HR representative;
- discussions will be held in good faith between the complainant and their supervisor or HR representative in an effort to genuinely resolve the complaint at the workplace level;
- the person(s) the complaint is made against will be given details of the complaint against them. They will be given the opportunity and a reasonable time to respond before the process continues. The supervisor or HR representative may have a discussion with all relevant parties in an effort to genuinely resolve the grievance at the workplace level;
- if the complaint cannot be resolved at the workplace level, then the person's supervisor or HR representative, in consultation with the Management Committee, may at any time refer the matter to be investigated. If the supervisor and / or HR representative forms the view that discussions between the parties will not assist in resolving the matter, they may refer the matter to be investigated without these discussions being held.

This procedure may not be used if another procedure is, in NJE's opinion, more appropriate.

9.4 Investigation

If an investigation is required NJE will adopt appropriate investigation procedures to investigate the matter. This may include the use of external investigators in some instances.

10 Privacy Issues: Record Keeping

It is important to thoroughly document action taken to address complaints once a formal process begins. Should there be questions later as to whether a complaint was properly handled; the records will provide the required information.

All reasonable efforts should be made to ensure that the documentation are stored in a confidential manner in secure cabinets and only disclosed to those staff who need to have access for official purposes. This does not include private notes or records kept by a complainant. The Privacy Act 1988 provides more specific details on the collection, storage, use and disclosure of personal information. It is important to note that the Freedom of Information Act 1982 makes provision for staff to gain access to documents relating to information which is personal to them.

Records kept by managers/supervisors in relation to the informal resolution of particular issues should be maintained in case:

- the issue proves not to be resolved and further action is required e.g. counselling, claims of compensation, or the issue is to be taken to a formal investigation or outside body; and
- there is a need to monitor the behaviour of individuals and/or a particular workplace to ensure that the issue is resolved.

11 EAP

Staff who are impacted by HDB incidents may access the NJE EAP for free confidential counselling. Staff who wish to utilise the NJE EAP should contact the HR department for access to the Program and/or further information.

12 Amendments

NJE may amend this Policy from time to time. Whilst it is the obligation of NJE personnel to keep themselves informed of the current policy at all times, NJE will endeavour to notify staff of policy amendments using one or more of the following methods:

a) mail;

b) e-mail; or

c) NJELink.

Staff will be required to comply with the policy as amended from time to time.

13 Schedule 1 - Complaint Lodgement Form

Name: _____

Work location & Manager: _____

Date & time alleged incident occurred: _____/ ____ / ____ & _____ : _____ AM / PM

Or, if a number of incidents are alleged to have occurred, period across which they have occurred:

_____

1. Describe the alleged incident (including what happened; when did it happen; where did it happen; who was involved; any witnesses; is anyone else aware of the incident; any action taken to address the issue. If a number of incidents are alleged to have occurred, insert these details for each incident. Use a separate sheet if required.)

_____

_____

_____

_____

_____

_____

_____

_____

_____

2. What outcome are you after? (Use separate sheet if required.)

_____

_____

_____

_____

_____

Have you discussed this issue with a Supervisor/Manager?

Yes ☐ No ☐

Have you discussed this issue with another colleague?

Yes ☐ No ☐

Have you submitted an SMS report related to this incident?

Yes ☐ No ☐

Please list any witnesses below including contact details:

Name	Contact Number
_____	_____
_____	_____
_____	_____
_____	_____

Do you wish to have a formal investigation conducted into this matter?

Yes ☐ No ☐

_____ _____

Signature Date