

OP8064 - Discrimination, Bullying and Sexual Harassment Policy

Document Owner	Executive Manager People, Culture and Safety
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Supporting Legislation and Documents	Anti-Discrimination Act 1991 (Qld) Work Health and Safety Act 2011 (Qld) Fair Work Act 2009 (Cth) Information Privacy Act 2009 (QLD)
Documents Directly Related	BP8036 - Code of Conduct - Team Members BP11023 - Code of Conduct - Suppliers and Contractors Pr8166 - Guide to the Code of Conduct for Team Members Pr8160 - Disciplinary Procedure Pr10751 - Grievance Procedure Related training : 1EWR18ST - Workplace Respect Module (UW)

1. Policy Statement

Unitywater is committed to providing a safe, healthy and inclusive work environment for team members and the community that is safe and free from any form of unlawful or inappropriate behaviour, including workplace bullying, sexual harassment and discrimination and where team members are treated with dignity, courtesy and respect. Workplace bullying, sexual harassment and discrimination are unlawful, contrary to Unitywater's values and will not be tolerated in the workplace.

2. Purpose and Objectives

The purpose of this policy is to explain what is bullying, sexual harassment and discrimination.

This policy creates awareness and details the responsibilities of all team members in relation to their behaviour to ensure the workplace is free from bullying, sexual harassment and discrimination, and how to respond to any instances of workplace bullying, sexual harassment and discrimination.

3. Policy Scope/Coverage

This policy applies to all Unitywater team members which includes, agency hire personnel and independent contractors working on Unitywater sites and/or interacting with Unitywater team members.

It is also unlawful to discriminate against prospective team members and in the provision of goods and services.

This policy applies to behaviours that occur:

- In connection with work, even if it occurs outside normal working hours.
- During work activities, for example when dealing with customers and members of the community.
- At work-related events, for example at conferences and work-related social functions.
- On social media where team members interact with each other, customers and members of the community.

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This policy forms part of the learning content in uLearn module: 1EWR18ST - Workplace Respect Module (UW).

4. Policy Details

Discrimination, bullying and sexual harassment are unacceptable at Unitywater and are unlawful.

If a Unitywater team member is found to have engaged in such conduct, the conduct will be dealt with in accordance with the Disciplinary Procedure.

It is the responsibility of all Unitywater team members, to ensure that the workplace is free from discrimination, bullying and sexual harassment.

4.1. Discrimination

Discrimination or adverse action occurs when a person or group of people is treated unjustly, or prejudicially when compared to another person on the basis of:

- Specified personal attributes; or
- An attribute that a person is presumed to have; or
- On the basis of a characteristic that the person with the attribute generally has or is imputed to have; or
- Exercising a workplace right.

These personal attributes protected by law are listed in definitions. There are two forms of unlawful discrimination that can occur.

Direct discrimination occurs when a person is dealt with unfairly on the basis of one of the defined attributes (compared with someone who doesn't have that attribute).

For example, not promoting someone because of:

- their age, racial/ethnic origin; or
- their family responsibilities.

Indirect discrimination occurs where there is a requirement, rule, policy, practice or procedure which appears to be the same for everyone but has an unfair and unreasonable effect on some people because of a certain attribute. Unless this type of requirement is "reasonable", it is likely to be indirect discrimination. It does not matter that there was no intention to discriminate.

- For example, arranging a business meeting outside of normal working hours, that a team member with family responsibilities is unable to attend.

Some exemptions do exist, particularly in the case of inherent or genuine occupational requirements that exist for the position to be performed.

4.2. Workplace bullying

Workplace bullying is where a person is subjected to behaviour, other than sexual harassment, that:

- Is repeated, and is unreasonable; and
- Is directed towards a team member or a group of team members; and
- Creates a risk to health and safety.

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Bullying can be carried out in a variety of ways, including face to face or over the phone, through email or text messaging, instant messaging or other social media channels.

Examples of behaviour, whether intentional or unintentional, that may be considered workplace bullying if they are repeated, unreasonable and create a risk to health and safety include:

- Abusive, insulting or offensive language or comments;
- Unjustified criticism or complaints;
- Continuously and deliberately excluding someone from workplace activities;
- Withholding information that is vital for effective work performance;
- Setting unreasonable timelines or constantly changing deadlines;
- Setting tasks that are unreasonably below or beyond a person's skill level;
- Unreasonably denying access to information, supervision, consultation or resources such that it has a detriment to the team member;
- Spreading misinformation or malicious rumours;
- Unreasonably changing work arrangements, such as rosters and leave, to deliberately inconvenience a particular team member or team members;
- Excessive scrutiny at work.

What does not constitute workplace bullying?

Not all workplace conflict will constitute bullying. Differences of opinions and disagreements will generally not be considered bullying.

Reasonable management of a team member does not constitute bullying, if it is done in a reasonable manner. This includes directing the way in which work is performed, undertaking performance reviews and providing feedback (even if negative), disciplining and counselling team members.

Examples of reasonable management practices include, but are not limited to:

- Setting reasonable performance goals, standards and deadlines;
- Rostering and allocating working hours where the requirements are reasonable;
- Transferring a team member for operational reasons;
- Deciding not to select a team member for promotion where a reasonable process is followed and documented;
- Informing a team member about unsatisfactory work performance when undertaken in accordance with any workplace policies or agreements such as performance management guidelines;
- Informing a team member about inappropriate behaviour in an objective and confidential way;
- Implementing organisational changes or restructuring;
- Termination of employment.

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Workplace bullying is also not:

- A single incident of unreasonable behaviour; or
- Acts of unlawful discrimination or sexual harassment.

Whilst a single incident of unreasonable behaviour does not constitute bullying it should not be ignored as it may have the potential to escalate into bullying behaviour and is likely to be considered inappropriate workplace conduct.

4.3. Sexual harassment

4.3.1 Sexual harassment is any unwanted, unwelcome or uninvited behaviour of a sexual nature which makes a person feel offended, humiliated or intimidated.

4.3.2 Sexual harassment occurs if a person—

- (a) subjects another person to an unsolicited act of physical intimacy; or
- (b) makes an unsolicited demand or request (whether directly or by implication) for sexual favours from the other person; or
- (c) makes a remark with sexual connotations relating to the other person; or
- (d) engages in any other unwelcome conduct of a sexual nature in relation to the other person;

and the person engaging in the conduct described above does so with the intention of offending, humiliating or intimidating the other person; or in circumstances where a reasonable person would have anticipated the possibility that the other person would be offended, humiliated or intimidated by the conduct.

4.3.3 Examples of sexual harassment include:

- Unwelcome physical touching;
- Sexual or suggestive comments, jokes or taunts;
- Staring at a person or their body parts;
- Unwelcome requests for sex;
- The display of sexual material (e.g. images, photos, pictures, posters, cartoons, reading material or messages) in areas that they might be seen by other team members or members of the public (e.g. on notice boards, desks or common areas, or in Unitywater vehicles or plant and equipment);
- Questions or insinuations about a person's private life.

4.3.4 Sexual harassment does not have to be deliberate or repeated to be illegal.

4.3.5 Some sexual harassment, such as sexual assault, indecent exposure and stalking is also a criminal offence.

4.3.6 Interactions that are consensual, welcome and reciprocated are not behaviour that is considered sexual harassment.

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5. Responsibilities

5.1. Responsibilities of all Unitywater team members

It is the responsibility of all Unitywater team members to be professional in their own behaviour and respect the rights of other team members, clients and members of the community.

If a team member believes that a team member is subject to any of the above mentioned behaviours, they can help prevent further incidents of this behaviour by offering support to the person subject to the behaviour, in the following ways:

- Refusing to join in with any harassing/bullying or discriminatory behaviour;
- Advising the person subject to the behaviour how to report it in accordance with the Grievance Procedure;
- Reporting the behaviour to a Leader. If it is not appropriate or the complainant is not comfortable raising the grievance with their Leader (e.g. if the grievance relates to their Leader) the matter can be escalated to the next level of management, such as Section Leader, Branch Manager, Executive Manager or HR Business Partner.

If a team member witnesses any bullying, sexually harassing or discriminatory behaviour, the team member is not required to say anything to the offender if they are not comfortable to do so; however, the incident should be reported to the team member's relevant Leader or a HR Business Partner.

5.2. Leader responsibilities

5.2.1 Leaders are responsible for ensuring that appropriate standards of behaviour are maintained in the workplace. A proactive and preventative approach will manage and minimise potential issues.

5.2.2 Leaders are required to:

- Be professional in their own behaviour (lead by example);
- Create a culture of openness and accountability where team members feel supported and safe to speak up if they experience or observe discrimination, bullying or sexual harassment;
- Monitor workplace behaviours on a day to day basis and ensure they conform with Unitywater standards and do not breach this policy;
- Seek early advice from your HR Business Partner where appropriate;
- Understand this policy and the Grievance Procedure to ensure they know how to respond to and resolve instances of bullying, sexual harassment and discrimination;
- Be aware of, and provide support to aggrieved team members and appropriately deal with team members alleged to have engaged in harassing behaviour;
- Ensure all identified instances of bullying, mental, physical and sexual harassment and discrimination are treated seriously and confidentially and in a timely manner;
- Ensure aggrieved team members are not further victimised.

5.2.3 Leaders are obliged to respond with appropriate action (in accordance with the Grievance Procedure) when they become aware of possible incidents of bullying, sexual harassment or discrimination. In some instances an investigation is warranted

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to establish the facts and the Leader should contact their HR Business Partner for advice and assistance.

5.3. **Executive Manager People, Culture and Safety** as Document Owner is responsible for:

- Conducting and/or delegating regular reviews to ensure this policy and related resources (e.g. procedures, forms, website content) remain fit for purpose, consistent and current.
- Approving this policy for publication (and/or seeking Board approval where required).
- Ensuring all relevant stakeholders and team members have been consulted and feedback is captured and actioned (where applicable).
- Ensuring appropriate communication and/or training is provided to relevant team members when implementing a new, amended or obsolete document (where applicable).
- Monitoring compliance with internal/external requirements (e.g. monitor legislation changes and assess/update this policy when required).

6. **Responding to bullying, sexual harassment or discrimination**

6.1 If a team member has experienced bullying, sexual harassment or discrimination, ignoring the behaviour is unlikely to resolve the situation. Remaining silent may inadvertently send the message to the person that their behaviour is acceptable. In some instances, the person may not be aware that their behaviour is unreasonable and the person may respond positively once they know that the behaviour has caused offence.

6.2 False or misleading complaints/grievances about someone's behaviour will not be tolerated and such behaviour will be managed in accordance with the Disciplinary Procedure.

6.3 **Grievance management**

(a) Grievances regarding sexual harassment, discrimination and workplace bullying will be treated seriously, investigated promptly and dealt with confidentially and impartially. All persons involved will be treated with the utmost confidentiality, without jeopardising natural justice, to ensure all persons involved do not suffer victimisation or unfair treatment.

(b) If team members witness behaviour constituting sexual harassment, discrimination, bullying or violence the matter is to be reported to a Leader or the HR Business Partner as a matter of urgency. The issue will then be dealt with in accordance with the Grievance Procedure.

6.4 **Violence in workplace**

6.4.1 When a team member is alleged to have perpetrated violence (whether that be physical or sexual) within the bounds of the workplace the Executive Manager People, Culture and Safety is to be notified. All allegations of sexual and physical assault within the bounds of the workplace should be immediately referred to the police without internal investigation. Other non-criminal allegations should be investigated internally by the Head of People Capability and Shared Services.

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6.4.2 Depending on the severity of the incident, several options can be taken against the perpetrator:

- First and final warning.
- Mandatory counselling.
- Placed on a work performance management plan.
- Instant dismissal.

7. Preventative Action

Unitywater is committed to taking the following actions in an attempt to minimise inappropriate behaviour in the workplace:

- Include information regarding acceptable workplace behaviour in the induction process;
- Provide specific discrimination, sexual harassment and bullying training;
- Require all Leaders to lead by example and demonstrate appropriate workplace behaviour;
- Continued focus on building a constructive workplace culture; and
- Initiate appropriate grievance procedures in accordance with the Grievance Procedure.

8. Definitions

To access the Unitywater Definition library click [here](#). If definitions are provided below, it means either the word and/or acronym is:

- not contained within the definition library; or
- has a different meaning in the context of this document.

Term	Meaning
Agency hire personnel	Are engaged through an agency to perform work for Unitywater under the direction of Unitywater but there is no direct employment relationship with Unitywater.
Adverse Action	Adverse action is taken if a team member is (a) Dismissed; (b) Their role is changed to their detriment; or (c) Discriminated against Because of a team member's personal attribute. Adverse action against a prospective team member is where the prospective team member is (a) Not offered a position; or (b) Discriminated against as to their terms and conditions of employment. Because of a prospective team member's personal attribute.
Contractor (including consultant)	A person who does not have a direct employment relationship with Unitywater and who is contracted to provide advice or perform work for Unitywater in a particular area of expertise.

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Term	Meaning
Grievance	This is a concern or complaint regarding behaviour defined under this policy, i.e. discrimination, bullying and/or sexual harassment.
Health	Health is defined by the <i>WHS Act</i> as both physical and psychological health.
Inherent requirement or Genuine Occupational Requirement	An inherent or genuine occupational requirement is something that is an essential element of the particular work or position. Inherent requirements will vary depending on the particular work.
Personal Attributes	<p>The <i>Anti-Discrimination Act 1991 (Qld)</i> prohibits discrimination in work and work-related areas on the basis of the following attributes:</p> <ul style="list-style-type: none"> a. sex b. relationship status c. pregnancy d. parental status e. breastfeeding f. age g. race h. impairment i. religious belief or religious activity j. political belief or activity k. trade union activity l. lawful sexual activity m. gender identity n. sexuality o. family responsibilities p. association with, or relation to, a person identified on the basis of any of the above attributes. <p>The <i>Racial Discrimination Act 1975 (Cth)</i> also prohibits racial discrimination on the basis of colour, national or ethnic extraction and social origin.</p>
Repeated Behaviour	Repeated behaviour refers to the persistent nature of the behaviour and can refer to a range or pattern of behaviours over a period of time (for example, verbal abuse, unreasonable criticism, isolation and subsequently being denied opportunities — i.e. a pattern is being established from a series of events).
Unreasonable Behaviour	Unreasonable behaviour means behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten another person.
Workplace	The Workplace is any place where work is carried out for Unitywater and includes any place where a Unitywater team member goes, or is likely to be, while at work including working

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Term	Meaning
	remotely. It also includes any place where work related parties, events and functions are held where there is connection to work.
Workplace Right	A person has a workplace right if the person is able to make a complaint or inquiry in relation to his or her employment. E.g. Discriminating against a team member on the grounds of making a safety complaint.
Victimisation	<p>Victimisation is the term used to describe the unfavourable treatment of an individual or subjecting the individual to some form of detriment because the individual:</p> <ul style="list-style-type: none"> • has raised a grievance or has proposed to raise a grievance in accordance with the policy; • has acted as a witness or has proposed to act as a witness in a grievance; • has supported a Complainant or intends to support a Complainant; or • has been a Respondent in a formal investigation.
Vilification	Vilification is a public act that incites hatred towards, serious contempt for or severe ridicule of a person or group of persons because of a particular attribute, including gender identity, sexuality, race or religion, of the person or members of the group.