

OP8064 - Bullying, Sexual Harassment and Discrimination Policy

Policy Owner	Executive Manager People, Culture and Safety
Policy Author	Manager HR Operations
Supporting Legislation & Documents	<i>Anti-Discrimination Act 1991 (Qld)</i> <i>Work Health and Safety Act 2011 (Qld)</i> <i>Fair Work Act 2009 (Cth)</i>
Documents Directly Related	BP8036 Code of Conduct Pr8166 Guide to the Code of Conduct OP8062 Disciplinary Policy OP8059 Grievance Policy

1. Policy Statement

Unitywater is committed to creating and maintaining an environment for team members, customers and clients that is safe and free from any form of unlawful or inappropriate behaviour, including bullying, sexual harassment and discrimination. 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 workplace bullying, sexual harassment and discrimination. This Policy also explains the responsibilities of all employees 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 including:

- a. The Chief Executive Officer;
- b. Members of the Executive Leadership Team;
- c. All Unitywater leaders and employees; and
- d. All agency hire employees and contractors working on Unitywater sites and/or interacting with Unitywater employees.

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 or clients
- At work-related events, for example at conferences and work-related social functions
- On social media where team members interact with colleagues or clients and/or the team member's actions may affect them either directly or indirectly.

OP8064 - Bullying, Sexual Harassment and Discrimination Policy

4. Policy Details

4.1. Discrimination

The *Anti-Discrimination Act 1991 (Qld)* (the Act) generally prohibits direct and indirect discrimination against a 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.

The person attributes are listed in Definitions.

It is unlawful to discriminate in the work and pre-work areas. This applies to the treatment of contractors and agency hire employees as well as direct employees of Unitywater. It is also unlawful to discriminate in deciding who should be offered work and in the provision of goods and services.

Some exemptions do exist, particularly in the case of genuine occupational requirements existing for the work/role that has to be performed.

Unlawful discrimination can be either direct or indirect.

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).

Examples of direct discrimination include:

- Unfair treatment of a female applying for work in a male department;
- Lack of promotion or appointment due to racial/ethnic origin;
- Not employing a female because they have family responsibilities.

Indirect discrimination occurs where there is a requirement (rule, policy, practice or procedure) which applies across the board and appears to treat everyone the same but has an unequal affect or result on an employee or a group of employees 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.

4.2. Workplace bullying

Workplace bullying is inappropriate workplace behaviour and breaches the duty of care imposed on Unitywater and its team members by the *Work Health and Safety Act 2011 (Qld)*. Workplace bullying is also contrary to Unitywater's Code of Conduct. It is the responsibility of all Unitywater team members to ensure that other team members are not subjected to any form of 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



OP8064 - Bullying, Sexual Harassment and Discrimination Policy

- Creates a risk to health and safety.

Workplace bullying committed by a Unitywater team member against another team member is misconduct and will be dealt with in accordance with the Disciplinary Policy and related Procedure.

Workplace bullying should not be confused with legitimate comment and advice (including negative comment and feedback) on work performance or work related behaviour carried out in a reasonable manner.

What does not constitute workplace bullying?

Reasonable management of a team member does not constitute bullying, if it is done in a reasonable manner. Leaders have the right, and are obliged to, manage their staff. This includes directing the way in which work is performed, undertaking performance reviews and providing feedback (even if negative) and disciplining and counselling staff. 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.

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 in appropriate workplace conduct.

Examples of behaviour, whether intentional or unintentional, that may be considered to be 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;



OP8064 - Bullying, Sexual Harassment and Discrimination Policy

- Setting unreasonable timelines or constantly changing deadlines;
- Setting tasks that are unreasonably below or beyond a person's skill level;
- Denying access to information, supervision, consultation or resources such that it has a detriment to the team member;
- Spreading misinformation or malicious rumours;
- changing work arrangements, such as rosters and leave, to deliberately inconvenience a particular team member or team members;
- Excessive scrutiny at work.

4.3. Sexual harassment

Sexual harassment is an unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated or intimidated, and where that reaction is reasonable in the circumstances.

Sexual harassment includes any:

- 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);
- Persistent questions or insinuations about a person's private life.

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

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

It has nothing to do with mutual attraction or friendship between people.

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 customers.

If a team member believes that a work colleague is subject to any of the above mentioned behaviours, he or she 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;



OP8064 - Bullying, Sexual Harassment and Discrimination Policy

- Advising the person subject to the behaviour how to report it in accordance with this Policy;
- Reporting the behaviour to a leader.

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 manager.

5.2. Leader responsibilities

Leaders at all levels 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.

Leaders are required to:

- Be professional in their own behaviour (lead by example);
- 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 the PC&S business unit where appropriate;
- Ensure they are conversant with this policy and how to respond to and resolve instances of workplace harassment/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 harassment/bullying, sexual harassment and discrimination are treated seriously and confidentially;
- Ensure aggrieved team members are not further victimised.

Leaders are obliged to respond with appropriate action (in accordance with this policy) when they become aware of possible incidents of bullying, sexual harassment or discrimination. In some instances an investigation is warranted to establish the facts and the leader should contact PC&S for advice and assistance.

6. Responding to bullying, sexual harassment or discrimination

If you have 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 will respond positively once they know that the behaviour has caused offence. In both situations, it is likely that the behaviour will continue if it is not addressed.

Be aware that if you make a false or misleading complaint about someone's behaviour (that is harmful or trivial), your complaint will not be progressed and in these circumstances you may be managed in accordance with the Disciplinary Policy and Procedure.



OP8064 - Bullying, Sexual Harassment and Discrimination Policy

6.1. Complaint management

Complaints 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.

If you witness behaviour constituting sexual harassment, discrimination and workplace bullying or violence you should bring the matter to the attention of your Leader as a matter of urgency. The issue will then be dealt with in accordance with the Grievance Policy.

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 Supervisors and Managers to lead by example and demonstrate appropriate workplace behaviour; and
- Initiate appropriate complaints procedures.

8. Definitions

Term	Meaning
Agency hire employee	Are engaged through an agency to perform work for Unitywater under the direction of Unitywater but there is no direct employment relationship with Unitywater.
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.
PC&S	This means Unitywater's People, Culture and Safety Business Unit
Discrimination	<p>Any practice that makes distinctions between individuals or groups to disadvantage some and advantage others on the basis of a particular attribute.</p> <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> <ol style="list-style-type: none">sexrelationship statuspregnancyparental status

OP8064 - Bullying, Sexual Harassment and Discrimination Policy

Term	Meaning
	<p>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> <p>The <i>Anti-Discrimination Act 1991 (Qld)</i> also explains that it is genuine occupational requirements for a position may be imposed and will not be considered discrimination.</p> <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>
Workplace bullying	<p>Workplace bullying is repeated, unreasonable behaviour, directed towards a Team member or a group of Team members that creates a risk to health and safety. It includes both physical and psychological risks and abuse.</p> <p>‘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).</p> <p>‘Unreasonable behaviour’ means behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten another person.</p>
Sexual harassment	<p>Sexual harassment happens if a person—</p> <ol style="list-style-type: none"> 1. subjects another person to an unsolicited act of physical intimacy; or 2. makes an unsolicited demand or request (whether directly or by implication) for sexual favours from the other person; or 3. makes a remark with sexual connotations relating to the other person; or



OP8064 - Bullying, Sexual Harassment and Discrimination Policy

Term	Meaning
	<p>4. engages in any other unwelcome conduct of a sexual nature in relation to the other person.</p> <p>And the person engaging in the conduct described above does so:</p> <p>(a) with the intention of offending, humiliating or intimidating the other person; or</p> <p>(b) in circumstances where a reasonable person would have anticipated the possibility that the other person would be offended, humiliated or intimidated by the conduct.</p>
Workplace	<p>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. It also includes any place where work related parties, events and functions are held.</p>
Victimisation	<p>Victimisation is the term used to describe the unfavourable treatment of an individual or subjecting them to some form of detriment because the individual:</p> <ul style="list-style-type: none"> • has made a complaint or has proposed to make a complaint in accordance with the Policy • has acted as a witness or has proposed to act as a witness in a complaint • has supported a Complainant or intends to support a Complainant; or • has been made a Respondent in a formal complaint investigation.
Vilification	<p>Vilification is different from discrimination. 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.</p>