

Workplace Bullying, Sexual Harassment & Discrimination

POLICY

Division

People and Culture

Policy number

Updated

October 2022

Implemented

December 2009

Review date

October 2024

Reviewed by

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Approved by

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Chief Executive Officer



3 November 2022

1. Policy validity statement

If this document has passed its review date (as shown on the cover page), it may be invalid. Please ensure you are referring to the most current version before relying on its contents.

2. Purpose

The purpose of this policy is to explain the standards of behaviour expected of all QLS team members and to outline our policy on workplace bullying, sexual harassment, discrimination and other unacceptable behaviours.

3. Scope

This policy applies to all current employees, work experience students, volunteers, councillors, committee members, contractors, subcontractors, and agents engaged by or who perform work on behalf of QLS (collectively **Workers**).

This policy not only regulates the conduct of Workers towards each other, but also conduct towards other persons that a Worker might encounter during the course of their engagement with the Society (such as QLS members, clients or members of the public).

This policy is not limited to behaviour and conduct in the physical workplace or during normal business hours and applies to all behaviour and conduct which is reasonably related to or connected with work (including but not limited to social events, business trips, work functions and interactions on social media) or the functions of QLS.

Complaints made under this policy will be dealt with under the Grievance Policy and the processes and procedures set out in that policy will be followed.

4. References

- 4.1. *Work Health and Safety Act 2011* (QLD)
- 4.2. *Work Health and Safety Regulation 2011* (QLD)
- 4.3. *Safe Work Australia: Guide for Preventing and Responding to Workplace Bullying*
- 4.4. *Anti-Discrimination Act 1991* (QLD) and corresponding federal legislation
- 4.5. *Fair Work Act 2009* (Cth)
- 4.6. *Human Rights Act 2019*
- 4.7. QLS Grievance Policy
- 4.8. QLS Acceptable Use of IT Policy
- 4.9. The Role of the Support Person document
- 4.10. Current QLS Council Charter

5. Definitions

5.1. Worker

Means a current employee, work experience student, volunteer, contractor, councillor, committee member, subcontractor or agent engaged by or contracted to work for QLS.

5.2. Workplace Bullying

Bullying is repeated, unreasonable behaviour directed towards a Worker, or group of Workers, that creates a risk to health and safety.

Unreasonable behaviour means behaviour that a reasonable person, having regard to the circumstances, would see as victimising, humiliating, distressing, undermining, or threatening.

Repeated behaviour refers to the constant and repeated nature of the behaviour, not the specific type of behaviour. Behaviour is considered to be 'repeated' if an established pattern can be identified and may involve a series of diverse incidents.

Bullying takes many different shapes and forms – it can be intentional or unintentional; occur face to face, over the phone, via email, text message or social media; and can be in a direct or indirect form.

Some examples of potentially bullying behaviour include:

- yelling at, abusing or insulting a person (particularly when others are present)
- repeated threats of dismissal or other severe punishment for no reason
- constant ridicule and being put down
- leaving offensive messages on email, social media or the telephone
- sabotaging a person's work, for example, by deliberately withholding or supplying information, hiding documents or equipment, not passing on messages
- maliciously excluding and isolating a person from workplace activities
- persistent and unjustified criticisms, often about petty, irrelevant, or insignificant matters
- humiliating a person through gestures, sarcasm, criticism and insults, often in front of customers, management or other team members
- spreading gossip or false, malicious rumours about a person with an intent to cause the person harm
- imposing unrealistic or unreasonable requirements and deadlines
- harmful, humiliating, or offensive practical jokes or initiation practices
- deliberately excluding someone from workplace activities

Not all conduct or behaviours in the workplace which make a person feel uncomfortable meet the definition of bullying. A single incident of unreasonable behaviour is not bullying nor is reasonable management action carried out in a fair and reasonable way.

Examples of management action which does not constitute bullying include:

- setting reasonable performance goals, standards and deadlines
- rostering and allocating working hours where the requirements are reasonable
- informing an employee about unsatisfactory work performance in an honest, fair and constructive way
- action taken to transfer or retrench an employee as a result of genuine operational requirements
- a reasonable decision not to promote an employee
- informing an employee about inappropriate behaviour in an objective and confidential way
- implementing workplace changes or restructuring for genuine operational reasons
- taking legitimate disciplinary action, including suspension or termination of employment.

5.3. Sexual harassment

Sexual harassment is any form of unwanted, unwelcome or uninvited behaviour of a sexual nature which a reasonable person would anticipate may be perceived as offensive, derogatory, intimidating or humiliating to another person. It is irrelevant whether the person engaging in the conduct intended to offend, denigrate, intimidate, or humiliate the other person.

Sexual harassment can take many forms and includes:

- subjecting another person to an unsolicited act of physical intimacy;
- making unsolicited demands or requests (whether directly or by implication) for sexual favours from the other person;
- making a remark with sexual connotations relating to, or in front of, the other person; and
- any other unwelcome conduct of a sexual nature in relation to the other person.

Some common examples of sexual harassment are:

- patting, pinching, touching in a sexual way, standing too close to or deliberately brushing up against a person;
- making comments about a person's body, clothing or appearance;
- excessive flirting;

- offensive telephone calls, emails, text messages, voicemails or comments on social media sites;
- repeatedly asking someone to go on a date or meet in a private or social capacity when the person has made it clear that the invitation is unwelcome;
- indecent exposure and sexual assault;
- leering or staring at a person or parts of their body;
- telling sexual jokes or playing pranks of a sexual nature;
- asking questions about a person's sexual activities or talking about your own sexual activities; and
- sending, viewing or displaying pornographic, rude or obscene magazines, pictures, emails, screensavers or internet sites in the workplace.

This sort of conduct does not have to be repeated or ongoing in order to amount to sexual harassment.

Sexual conduct is not regarded as sexual harassment if the interaction is consensual, welcome and reciprocated.

Some forms of sexual harassment (such as sexual assault, indecent exposure and stalking) are regarded as a criminal offence and may result in legal action being taken against the offender.

5.4. **Discrimination**

Direct discrimination occurs when someone is treated less favourably on the basis of one or more protected attributes, than a person who does not have that attribute would be treated in similar circumstances.

Indirect discrimination occurs when a requirement, condition or practice (which may be neutral on its face) disadvantages, operates unfairly or is unreasonable in relation to a particular group of people holding a protected attribute.

Protected attributes include:

- sex, gender identity or intersex status
- marital or relationship status
- pregnancy or potential pregnancy
- parental status
- breastfeeding
- age
- race, colour, descent or national or ethnic origin

- mental or physical impairment, disability or illness
- religion, religious belief or activity
- political belief or activity
- trade union membership or activity
- lawful sexual activity
- sexuality, sexual orientation or sexual preference
- family or carer's responsibilities

Discrimination may involve:

- treating people differently because of one of the above attributes
- making offensive 'jokes' about another person's racial or ethnic background, gender, sexuality, age or disability
- expressing negative stereotypes about particular groups, for example, "married women shouldn't work".
- judging someone on their political or religious beliefs rather than their work performance

It is important to realise that behaviour can be discriminatory even though it may not be intended.

5.5. **Victimisation**

Victimisation is any adverse conduct towards a Worker because they:

- has complained, intends to complain, or is involved in a complaint about a breach of this policy or any workplace conduct; or
- has commenced, intends to commence or is involved in legal proceedings that are connected to a breach of this policy or any workplace conduct.

Adverse conduct includes (but is not limited to) discriminating against the person, disadvantaging them in their employment, excluding them from company activities, withholding promotions, benefits or other opportunities and threatening the person.

5.6. **Vilification**

Vilification is the use of words or acts in public (which includes the workplace) which incites others to hate, or to have a serious contempt for, or to severely ridicule individuals or groups because of their race, religion, sexuality or gender identity.

Some examples of vilification are:

- displaying or communicating offensive material;
- putting hate graffiti written on work toilet walls

- wearing of symbols, badges or clothing in the workplace with slogans that incite hatred
- using social media to incite hatred of another person or persons
- calling people names and making offensive comments

6. Policy

QLS is committed to ensuring a healthy and safe workplace that is free from workplace bullying, sexual harassment, discrimination, victimisation and vilification.

We seek to implement a culture of respect, dignity and fair treatment as a daily reality for everyone who works with us.

Workers must not engage in bullying, sexual harassment, victimisation or vilification whilst they are at work or in any way connected to work. Workers must also not encourage or assist anyone else to engage in such behaviour. These behaviours are unlawful and they will not be tolerated by QLS under any circumstances.

QLS is an equal opportunity employer. All team members are treated equally, without regard to race, age, sex, relationship status or any other factor not applicable to their ability to perform the job at hand.

6.1. How can bullying, discrimination and other inappropriate behaviours occur?

Bullying, discriminatory and other inappropriate behaviours can be carried out in a variety of ways including face-to-face, through email or text messaging, or via social media channels.

It can be committed by:

- a worker
- a co-worker
- a group of co-workers
- a client or customer
- a member of the public.

It can occur between people in any direction in a workplace:

- laterally (an employee to another employee)
- upwards (an employee to a manager/supervisor)
- downwards (a manager/supervisor to an employee).

6.2. Impact of bullying, discrimination and other unacceptable behaviours on people and the business

Bullying, discrimination and other unacceptable behaviours have a significant negative impact on both people and the business. It can create an unsafe working environment, result in the loss of quality staff, the breakdown of teams and individual relationships, and reduced

efficiency. People can become distressed, anxious, withdrawn, depressed and can lose self-esteem and self-confidence.

6.3. **Workplace strategies to eliminate unacceptable behaviours**

- provide all Workers with regular awareness programs and/or training
- ensure that the policies covering bullying, harassment, discrimination and grievances are understood and complied with by all Workers
- provide support for all Workers who experience bullying, harassment and discrimination
- commit to promptly investigating complaints
- ensure that appropriate action is taken against a person who bullies, harasses or discriminates against another person or who victimises a person who has made a complaint or who is a witness to a complaint.
- Complaints found to be frivolous, vexatious or false may result in the complainant being subject to disciplinary action. Refer to the Grievance Policy for further information.

6.4. **What to do if you experience or witness conduct in breach of this policy**

QLS strongly encourages Workers who feel that they have been discriminated against, bullied, harassed, victimised or vilified to immediately make it clear to the person engaging in the inappropriate behaviour that such behaviour is unwelcome and offensive.

In addition to, or in circumstances where the Worker does not feel comfortable discussing the matter directly with the perpetrator, Workers can report and/or make a complaint about the behaviour by following the process set out in the QLS Grievance Policy.

In circumstances where a Worker observes behaviour in breach of this policy, that Worker should report the situation to their supervisor or manager, or otherwise to a member of People and Culture.

7. **Compliance**

Under WHS legislation there is a primary duty of care on employers to protect, so far as is reasonably practicable, the health and safety of Workers while they are at work.

There are also duties on Workers to take reasonable care when at work to avoid adversely affecting the health and safety of themselves and others.

The duty to protect the health and safety of Workers is not limited to physical health, but also extends to mental health.

Under state and federal discrimination laws, individual perpetrators and QLS can be liable for bullying, discrimination, sexual harassment and/or vilification that occurs in and outside of the workplace.

Accordingly, all Workers have responsibilities under this policy.

7.1. Responsibilities of Council

Council and the Chief Executive Officer all have oversight of this policy and the Grievance Policy for resolution of grievances and complaints, including receiving information about grievances and complaints.

Where an officer (for example, the Chief Executive Officer or President) is managing a grievance, it is the incumbent in that office from time to time that accountability is handed over to any new incumbent.

The outcome of any grievance or complaint may be notified to the President, the Council and the Chief Executive Officer. The Chief Executive Officer or President should keep records and inform when appropriate their successors of any complaint or grievance.

7.2. Responsibilities of QLS

QLS has a responsibility to take reasonable steps to prevent behaviour in breach of this policy. To meet this responsibility QLS will:

- implement this policy;
- educate Workers in relation to this policy;
- monitor compliance with this policy; and
- provide an avenue for complaints to be made and addressed in respect of alleged breaches of this policy.

7.3. Responsibilities of general managers, managers and supervisors

Managers and supervisors have the same responsibilities as other Workers but in addition to those responsibilities must:

- monitor the working environment to ensure that acceptable standards of conduct are observed at all times
- lead by example and model appropriate behaviours themselves
- promote this policy and the Grievance Policy within their division/business unit and ensure their teams understand the requirements of these policies
- treat all complaints seriously and immediately notify People and Culture
- deal with any complaints in a timely manner in accordance with the grievance policy
- ensure that where a person lodges a complaint or is witness to an incident that is the subject of a complaint, that the person is not victimised.

7.4. Responsibilities of all Workers

Workers have the following responsibilities:

- to understand and comply with this policy, the Grievance Policy and the relevant legislation

- to participate in training in relation to this policy as directed by QLS
- not to assist or encourage others to breach this policy
- to speak with your manager, general manager, People and Culture or a QLS contact officer if you believe that there has been a breach of this policy
- not to make false, frivolous or vexatious complaints
- maintain complete confidentiality if they provide information during the investigation of a complaint.

7.5. Breach of this policy

(a) Workers (other than Council or Committee members)

Workers need to be aware that breach of this policy is likely to result in disciplinary action being taken against them.

Depending on the severity of the situation, disciplinary action could include asking the perpetrator to issue an apology, undergo counselling or additional training; or could result in other appropriate disciplinary action up to and including termination of employment where relevant.

Depending on the circumstances, in addition to internal disciplinary action, breach of this policy could also result in legal proceedings being commenced against the individual for breach of applicable discrimination or health and safety laws. In the event of legal proceedings, individuals may be exposed to legal costs, penalties, orders to pay compensation and even imprisonment in some circumstances.

(b) Councillors and Committee members

Potential outcomes for a Councillor or a Committee member found to have breached this policy may be suspension or removal from office or as a member of a committee under the *Legal Profession (Society) Rules 2007*.

In such a case the Councillor or Committee member may be referred to the Council for appropriate management in accordance with the Society's governance structure.

Complaints under this policy will be dealt with in accordance with the Grievance Policy.

8. Endorsement

QLS is committed to this policy and its implementation, and to ensuring a healthy and safe work environment that is free from bullying, discrimination and other unacceptable behaviours. For further information, please contact People and Culture.

9. Document history

Document History			
Amended	Amended By	Division	Details
11/12/2009	B Bignell	Human Resources	Updated based on feedback from CEO.
24/12/2009	B Bignell	Human Resources	Updated based on feedback from The Executive Team
07/10/2011	A Ashton	Human Resources	Policy updated in line with Qld terminology.
28/03/2012	A Ashton	Human Resources	Updated with minor changes.
05/12/2012	A Ashton	Human Resources	Updated in line with the Code of Practice and minor grammatical changes.
11/01/2013	A Ashton	Human Resources	Updated into the new policy template.
26/01/2013	D Firman	Human Resources	Minor edits made.
18/12/2013	A Ashton	Human Resources	Update in line with the Safe Work Australia Guide.
22/06/2015	A Ashton	Human Resources	Bi-annual review; combination of the QLS Workplace Harassment Policy and the QLS Equal Opportunity Policy with minor edits.
21/09/2016	A Graham	People and Culture	Changed to reflect signature of the current CEO
3/02/2017	K Ramsey	External Legal Advisor	Amendments to the definitions, including expanding the definition of worker, amendments to the compliance section and information for people about what to do if they are being bullied
7/02/17	A Ashton	People and culture	Review and minor revisions
6/02/18	A Graham	People and Culture	Added in reference to supporting documents

18/03/2020	M. Westbrook & L..McKern	General Counsel and People and Culture	Review to add in Counsel responsibilities and minor amendments to some wording.
12/10/2022	C.Ellemor	People and Culture	Reviewed and minor amendments.