

Water Utilities Australia Pty Ltd

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Respectful Workplace Policy**

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1. Background and Context

Water Utilities Australia (WUA) is committed to providing a safe, legally compliant and socially responsible working environment for all employees, contractors and business associates. As part of this commitment, Water Utilities Australia actively promotes the education and management of its workforce in the promotion of a working environment free from all forms of harassment, workplace bullying and discrimination. To this end, WUA has a zero tolerance towards harassment, workplace bullying and discrimination in any form and any allegation found to be true and correct will result in full disciplinary action being taken regardless of the person, position or reason.

WUA abides by Commonwealth and State legislation in respect to Equal Opportunity and acknowledges it is unlawful to treat anyone unfairly because of age, sex, chosen gender, race, disability, sexuality, marital or domestic partnership status, pregnancy, association with child, caring responsibilities, identity of spouse, religious appearance or dress, political opinion, religion, social origin, irrelevant criminal record or trade union activity.

It is also understood and acknowledged that it is unlawful to [sexually harass](#) people or to [victimise](#) them because they have complained about discrimination, harassment or workplace bullying.

2. Purpose and Scope

These operational objectives set out the process all WUA employees including casual, temporary and contract staff are entitled to if they believe they are confronted with harassment, bullying or discrimination as a result of their employment and/or dealings with WUA.

This policy applies to employees while they are at work on site and while they are attending work functions, work related social gatherings and duties outside of their regular workplace. For example, at conferences, work related overnight trips or meetings at other worksites.

While it is expected that employees will undertake early conflict management options contained in this policy, this policy does not preclude a person's right to lodge an external complaint of discrimination, sexual harassment or workplace bullying with the appropriate external agency.

The Policy has been developed to ensure that:

- All employees are aware of policy, procedure and outcomes in respect to allegations of harassment, bullying or discrimination.
- All activities are conducted in accordance with Legislative, Industry and Customer and community standards and expectations.
- Water Utilities Australia meets its duty of care to all employees and their families whilst conducting Water Utilities Australia business.

3. Definitions

For the purpose of this document the following words and statements will have the meaning given below:

WUA means Water Utilities Australia

Responsible Person means a manager of WUA given authority from the Board to act on behalf of WUA to investigate breaches of policy and procedure. This will be, unless notified otherwise, the Chief Executive Officer or General Manager.

Employee means an employee or an individual acting under the authority of Water Utilities Australia, whether a permanent, casual, temporary or contracted employee

Equal Opportunity means treating employees, potential employees, clients, customers and any party who WUA may conduct, or does conduct business with equally or similarly and not disadvantaged by

prejudices or bias. This means that the best person for a job or a promotion is the person who earns that position based on qualifications, experience and knowledge.

Conflict involves a disagreement between employees or between an employee and their manager where one or both parties perceived that their views, goals, needs or communication preferences are incompatible with the other. Conflict may involve perceived unreasonable behaviours between parties. Conflict can involve verbal and non-verbal interactions. Unresolved conflicts can lead to workplace bullying if not addressed.

Confidentiality means only the people who are directly involved with the complaint are to be spoken to in regard to the matter. The complaint is not to be discussed with other parties except on a need-to-know basis. Because managers have a duty of care to staff they may not be able to keep all complaints confidential and have a duty of care to act on them in order to prevent conflicts from escalating and contributing to potential occupational health and safety risks.

Discrimination means treating someone less favourably because of particular characteristics (such as their sex, age, pregnancy or disability), or because they belong to a particular Australia of people (for example persons of a particular sexuality, race or religion).

Indirect Discrimination means treatment which appears to be equal but is unfair on certain people.

Diversity generally refers to differences in race, gender, ethnic or cultural background, level of physical and mental ability, age, sexual orientation and religion. A productive and fair environment is one that acknowledges diversity and recognises the need to promote equality and a discrimination-free working and learning environment.

Sexual Harassment means behaviour of a sexual nature which a person finds offensive, causes them to be afraid or humiliated. Sexual harassment is determined by the person feeling harassed. It is how the behaviour is perceived, not the intention which determines harassment.

Workplace Bullying is defined as *repeated and unreasonable behaviour* directed towards a worker or a Australia of workers that *creates a risk to health and safety*.

Repeated behaviour refers to the persistent nature of the behaviour and can involve a range of behaviours over time.

Unreasonable behaviour means behaviour that a reasonable person, having regard for the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.

Workplace Bullying is not a once only conflict. Bullying is not reasonable management practices, or reasonable management or administrative decisions, taken by a manager or the organisation.

Workplace Bullying may be covered by the anti-discrimination laws if a person is being targeted because of their sex, age, marital status, pregnancy, sexuality, disability or race.

Mediation is a process in which the Complainant and the Respondent, with the assistance of a qualified mediator identify the problems involved in the conflict, consider possible solutions and, where possible, develop terms of agreement to resolve the conflict.

Victimisation means intimidating, threatening or unfairly treating a person or witness who raises an allegation or assists another to raise an allegation of harassment or other breach of policy or procedure.

Vexatious Complaints are complaints about others that the complainant knows to be untrue, or have been lodged with the intention of causing harm or hardship to the person or persons against whom he or she is complaining. Vexatious complaints are dishonest and will incur disciplinary action. *Complaints that are lodged in good faith, even if the allegations cannot be substantiated, are not considered vexatious.*

4. Responsibilities

It is the responsibility of all employees, regardless of position or employment conditions to ensure they safeguard their and their colleagues' work environment from acts of bullying and/or harassment.

It is the responsibility of all managers to act in accordance with WUA policies and ensure all employees conduct themselves in a manner which promotes a culture of equality, fairness and opportunity for all.

All employees and Officers of Water Utilities Australia acknowledge and accept their responsibility to:

- Know and understand this policy, Commonwealth and State Acts and social and community expectations;
- Not tolerate harassment or workplace bullying in any form and set an example for all employees of WUA;
- Ensure all employees understand the difference between acceptable and unacceptable behavior;
- Treat every allegation seriously and investigate to the full extent in their capacity as an executive of WUA;
- Keep all allegations, investigations and outcomes confidential and conduct all investigations in a professional manner.

5. Rights

All employees, regardless of position or employment conditions have:

- The right for employment decisions to be made on merit;
- The right to be protected against harassment, bullying and/or victimisation;
- The right to raise an allegation.

6. Zero Tolerance

WUA has a zero tolerance to discrimination, harassment or bullying in any form. An allegation, when upon investigation by a responsible person shows there is no mitigating circumstances may result in the immediate termination of the offending party.

7. Reporting

Any employee who believes they have been harassed, bullied or discriminated against should do the following:

- Do not ignore the harassment, bullying or discrimination;
- If comfortable, inform the offender their behaviour is offensive to you and it should cease immediately;
- Report the behaviour to your immediate manager or General Manager.

8. Informal Resolution of Conflicts

Process of having a conflict resolved informally

It is recommended in the first instance that employees who feel that they have a workplace conflict make an attempt to resolve the issue themselves.

However if someone believes they are being bullied, sexually harassed or the alleged behaviour is of a serious nature such as an assault, physical and verbal threats or intimidation, the complainant is to report the matter to a designated Responsible Person as a matter of urgency.

Although the informal complaint process is a no-blame course of action, managers who receive verbal or written complaints of conflict, (including bullying, harassment or discrimination) are to take them seriously, and to take appropriate action to address the concerns as soon as possible and to follow up with both parties after they have met with them to prevent continuation or escalation of the problem.

- If the issue has not been able to be resolved by talking to the other party, the complainant or their manager is concerned about ongoing or escalating conflict, the manager will meet with both parties separately to listen to their perception of the problem;
- The manager will find out how the parties would like to resolve the problem (such as mediation, apology, assurance the behaviour will not continue, training, counselling);
- The manager will meet with both parties together if appropriate, so that they can discuss the behaviour in question and agree on future conduct;
- The manager will follow up with both parties that the agreed conduct is occurring and there is no reoccurrence of the alleged behaviour that resulted in the complaint;
- The manager will keep notes on any individual, joint and follow-up meetings with the parties, and these notes will be forwarded to the General Manager when the complaint has been resolved;
- The manager will store these notes with all other records relating to the informal complaints in a confidential file, but **not the complainant's personnel file**.

If the complainant is unable to resolve the conflict through conflict coaching or manager intervention or if they do not feel that these options are appropriate, they may ask their, Manager or Responsible Officer to organise a Professional Mediation in order to attempt to resolve the matter and avoid escalation of the conflict.

9. Mediation as an Option

If mediation is to be undertaken the General Manager will appoint a qualified external mediator to conduct the mediation.

- The mediator will talk with both parties separately to find out how they would like to resolve the conflict.
- The complainant and the person complained against (the respondent) as being the parties involved can choose to have a support person present or not during any mediation.
- Prior to the mediation conference the mediator will clarify who will be attending as support people for the complainant and the respondent.
- What is said during the mediation is confidential (**unless** failure to disclose could potentially place somebody at risk of harm) and cannot be used at any subsequent investigation.
- If the complaint progresses to an investigation the investigator will NOT be the same person who conducted the mediation.

10. Formal Complaint Handling Process

All employees, regardless of position or employment conditions are entitled to the following guaranteed process:

10.1 Receiving an allegation

Any person receiving an allegation of harassment, bullying or discrimination should listen to the allegation supportively and take the allegation seriously. They should not offer opinion or thought as to the validity of the allegation or personal opinion of any parties involved in the allegation.

If the allegation is communicated to an individual who is not in a management position they should advise the person raising the allegation they have a duty of care to report the allegation to a Responsible Person as defined in this document.

When an allegation is received by a Responsible Person, they are to treat the allegation in the strictest confidence and explain to the person raising the allegation how the allegation will be dealt with.

They will inform the person raising the allegation they are entitled to have a support person present for the recording of the details of the allegation.

The Responsible Person will convene a meeting to record details of the allegation and have second responsible Person present to witness the meeting. The allegation will be recorded in writing, detailing specifics of the allegation including individuals involved, language used; physical contact made or threatened and associated circumstances either real or perceived.

The complainant is required to read the statement taken and sign that it is a true and correct account of their allegation.

10.2 Investigating the allegation

Investigation of all allegations must be undertaken as soon as is reasonably practicable after an allegation being reported to a Responsible Person.

The Responsible Person tasked to investigate will review the statement taken at the time of reporting and make note of any areas of the allegation which require further clarification or detail. If required they will re-interview the complainant and address any details. Any amendments, subtractions or addition made will be signed by the complainant as true and correct.

10.3 Interviewing the alleged harasser

It is important to commence the investigation of any alleged harassment, bullying or discrimination without prejudice. The person against whom the allegation is raised should be advised a serious allegation has been raised and they are required to attend a meeting to assist in the investigation (Letter - Request for Meeting Regarding Alleged Misconduct).

At the commencement of the meeting, the Responsible Person should confirm the right for the person to have a support person present and record if they choose to not have someone. The Responsible Person should continue with the interview ensuring the following guidelines are followed:

- Emphasise confidentiality is ensured whilst the investigation is undertaken, and any resulting action will remain confidential;
- The allegation is clearly outlined, detailing time, places, involved parties etc.;
- Ensure questions and statements are unbiased and not meant to elicit a specific response;
- Record all responses from the interviewee and any obvious physical reactions;
- Specifically note conflicting versions of the allegation and response;
- Have the interviewee read the statement recorded and have them sign the statement as a true and correct account of their response.

10.4 Interviewing witnesses

All stated witnesses to the allegation will be interviewed as support or denial of the allegation. The interview should adhere to the following guidelines:

- Emphasise confidentiality is assured and assure all witnesses their cooperation in the process is an important part of WUA's commitment to equal opportunity in the workplace;
- Outline the allegation raised and their stated involvement;
- Record all responses, ensuring questions and statements are unbiased and not meant to elicit a specific response;
- Have the interviewee read the statement recorded and have them sign the statement as a true and correct account of their response.

11. Determination and Close Out

In determining the outcome, action items and appropriate close out of an investigation it is important to remove opinion and focus on the found facts of the investigation. The Responsible Person charged with investigating the allegation has a duty of care to all parties in delivering a fair and equitable outcome and solution for all to move forward.

11.1 Allegation found to be true

Where an allegation, upon investigation, is found to be true, any disciplinary action taken should be dealt with in context with the severity of the offence. The Responsible Person who has conducted the investigation will advise the employee in question to attend a meeting to discuss the outcome of the investigation. The employee will be invited to have a support person present for the meeting; this may be a fellow employee, family member or external party.

The findings of the investigation will be communicated to the employee and reason for the decision explained. It is important to not revisit the investigation in its entirety and to communicate to the employee the decision is final.

The employee will be disciplined in accordance with the Water Utilities Australia Termination Policy.

11.2 Allegation found to be false

Where an allegation, upon investigation, is found to be false, the reasons for this decision are to be communicated to all parties. No disciplinary action will be taken and the parties involved in the investigation are to be reminded of WUA expectations and requirements for employee welfare and conduct.

11.3 Close out of file

On completion of the investigation and communication of outcomes to all parties, all recorded notes and documents related to the allegation and investigation will be filed with the General Manager. Copies of letters and employee responses will be filed in the individual employee personnel file.

12. References

Fair Work Act 2009 (Cth)
Sex Discrimination Act 1984 (Cth)
Racial Discrimination Act 1975 (Cth)
Disability Discrimination Act 1992 (Cth)
Age Discrimination Act 2004 (Cth)
Equal Opportunity for Women in the Workplace Act 1999 (Cth)

Australian Human Rights Commission Act 1986 (Cth)

Privacy Act 1988 (Cth)

Fair Work Act 1994 (SA)

Equal Opportunity Act 2004 (SA)

Racial Vilification Act 1996 (SA)

Whistleblowers Protection Act 1993 (SA)

APPENDICIES

1. What Is Discrimination?

Discrimination is about treating somebody unfairly because of a characteristic that they have.

Examples of Discrimination that are covered by this Policy:

- Not employing or promoting somebody because of a disability when their disability would not prevent them from carrying out the inherent requirements of their job (disability discrimination)
- Treating somebody badly because they are of a particular race, sex, age, sexuality, religion, or have a disability.
- Teasing a co-worker about their sexuality, or presumed sexuality (sexuality discrimination)
- A decision based on unreasonable grounds not to allow an employee who is just about to go on maternity leave to undertake staff training with the rest of the team (pregnancy and sex discrimination)
- Not promoting an employee because you think they are too old (age discrimination)
- Isolating an employee because they are of a particular religion, or they wear clothing that depicts their particular religion
- Mimicking or mocking a colleague with an accent or limited English, or providing a second rate service to a customer because of the colour of their skin (racial discrimination, or disability discrimination)
- Only considering a single person for a position that requires extensive interstate travel (marital discrimination, may also constitute indirect age discrimination).
- Treating an employee or customer unfairly because you presume they have a disability, or because of a past disability (disability discrimination)

It is not discrimination when a manager takes reasonable action in a reasonable manner to discipline, or counsel an employee, as long as they are applying the same standards of behaviour to all employees.

2. What Is Workplace Bullying?

Workplace bullying is defined as *repeated and unreasonable behaviour* directed towards a worker or a Group of workers that *creates a risk to health and safety*.

Repeated behaviour refers to the persistent nature of the behaviour and can involve a range of behaviours over time.

Unreasonable behaviour means behaviour that a reasonable person, having regard for the circumstances, would see as unreasonable, including behaviour

2.1 Examples of workplace bullying could include:

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
- 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 worker
- spreading misinformation or malicious rumours
- changing work arrangements, such as rosters and leave, to deliberately inconvenience a particular worker or workers
- excessive scrutiny at work.

A single incident of unreasonable behaviour is not considered to be workplace bullying however it may have the potential to escalate and should not be ignored.

2.2 What is NOT workplace bullying behaviour?

Bullying behaviour does not include:

Reasonable action taken in a reasonable manner by an employer to transfer, demote, discipline, counsel, retrench or dismiss an employee;

A decision by an employer, based on reasonable grounds, not to award or provide a promotion, transfer, or benefit in connection with an employee's employment;

Reasonable administrative action taken in a reasonable manner by an employer in connection with an employee's employment;

We recommend that, you address the specific behaviours with the respondent, or talk to your manager or a Responsible Officer or General Manager. This way the issues and specific behaviours can be addressed without inflaming the situation.

3. What Is Sexual Harassment?

Sexual harassment is unwelcome sexual behaviours which make a person feel offended, humiliated and/or intimidated where that reaction is reasonable in the circumstances.

Sexual harassment happens to men and women of all ages.

Sexual harassment can take various forms. It can involve:

- unwelcome touching, hugging or kissing;
- staring or leering;
- suggestive comments or jokes;
- sexually explicit pictures, screen savers or posters;
- suggestive text messages; phone calls or e-mails;
- continually asking someone out on a date when they have said no;
- requests for sex or sexual favours;
- intrusive questions about an employee's private life or body;
- unnecessary familiarity such as deliberately brushing up against someone
- insults or taunts based on your sex;
- accessing sexually explicit internet sites;
- placing sexual objects (magazines, toys, or other items of a sexual nature) in someone's locker, desk or on their person
- writing sexual graffiti on someone's locker, desk or on their person

Sexual harassment is **not** sexual interaction, flirtation, attraction or friendship, which is invited, mutual, consensual or reciprocated.

Physical assault, indecent exposure, sexual assault, stalking or obscene communications is also punishable under criminal law. More information about Sexual Harassment can be found on the [Human Rights and Equal Opportunity Commission](#) website.

IMPORTANT: A working environment that is sexually intimidating may also amount to sexual harassment. An intimidating work environment may be one where general sexual banter, crude conversation and jokes are allowed to occur. Employers and organisations can be held responsible for the sexual harassment done by their employees.

4. Guidelines for Managers

- Treat every complaint seriously.
- A complaint once made cannot be withdrawn because managers have a duty of care to prevent potential bullying, harassment and discrimination.
- Complaints about conflicts that are not addressed (and followed up) have the potential to evolve into complaints of bullying.
- To prevent a complaint from escalating, act on it straight away. It will not go away if you ignore it.
- Follow up all complaints with the complainant and respondent, and monitor ongoing behaviour.
- Even after the resolution of complaints, follow up with the complainant and monitor the environment for any signs that there may be ongoing conflict.
- Document all contacts with the complainant and respondent as outlined in the [informal complaint resolution process](#).
- Encourage both parties to resolve the issue as soon as possible through the informal options, while making it clear that the allegations are taken seriously.
- Because the manager has a duty of care to all staff, serious allegations such as assaults or threats to personal safety must be followed up and cannot remain confidential. Telephone the OHS Manager if you have any concerns about the safety or welfare of staff. **In an emergency telephone the Police.**

4.1 When preparing to talk with the respondent:

- Make sure that you approach the concerns raised by the complainant in an impartial way. Explain your role in trying to get resolution, not make judgements.
- Approach the respondent in person if possible (rather than talk to them about the complaint over the telephone or by e-mail which can result in an angry response).
- Arrange for a private place to meet where you can discuss the issue in detail.
- Make sure you are clear in your mind about the facts of the complaint and give the respondent the full details of the complaint and how the complainant would like the matter resolved (i.e. apology, assurance that the behavior will cease).
- Remind the respondent that [victimisation](#) is a serious offence.
- Explain the informal and formal complaint handling process and the preferred option of the complainant. If they admit to some/all of the allegations ask them how they would like to resolve the issue.
- Keep the issues raised by the parties in conflict separate from any other issues such as performance.

4.2 Useful Questions When Speaking With Complainants

- What happened?
- Who was involved?
- When did the incident take place?
- Where did the incident take place?
- How did you react?
- Was this the first time this has occurred or has it happened previously?
- How has this impacted on or affected you?
- How would you like to see this resolved? (Is this realistic?).
- What are the advantages / disadvantages in resolving it in this manner?

5. Guidelines for Complainants

- If you believe that you are being treated disrespectfully, bullied, discriminated against or harassed seek help early so the situation can be stopped.
- A complaint once made cannot be withdrawn because managers have a duty of care to prevent potential bullying, harassment and discrimination.
- If you are able, as soon as possible after the event, make it clear to the other person involved that you found their behaviour disrespectful or inappropriate and you would like it to stop. Don't use labels such as bullying, but talk with the other person about the specific behaviours that are causing you concern. Talk to a Responsible Person, or ask your Manager for assistance.
- If you believe you are being bullied, sexually harassed, or discriminated against, keep a diary of events and any supporting documentation. This is because any supporting evidence that you have will assist in substantiating your allegations if you need to proceed to a formal complaint. However, it is much better for you, the team and the relationship if the matter is able to be resolved informally.

If you write a formal letter of complaint (or is someone writes it for you) you will need to document:

- What happened?
- Who was involved?
- When did the incident take place?
- Where did the incident take place?
- How did you react? (Did anyone see your reaction?)
- Was this the first time this has occurred or has it happened previously?
- Did anyone else see this, or any previous incident?
- Is there any other physical evidence or documentation of the incident such as e-mails, letters, and text messages?

TIP: Don't write any letters while you are angry or upset. Have a Responsible Person assist you with writing down your complaint so that it is factual and does not contain emotionally laden material that may escalate the problem.

If in doubt about the process, or your rights, get in touch with a Responsible Person, your Manager or the General Manager.

5.1 Vexatious Complaints

Employees have a responsibility not to make vexatious complaints. Disciplinary action may be taken against employees who:

- Knowingly allege bullying, discrimination and /or harassment that is vexatious, malicious or in bad faith, and have done so deliberately to cause harm or hardship to the respondent/s.

6. Guidelines for Respondents

- You may not be aware that your behaviour has caused offence. Resolving conflict informally and apologising for any (intentional or unintentional) distress you have caused can de-escalate conflicts and assist both parties to move forward;
- As much as you may be upset that a complaint has been made against you, do not behave in any way that could be interpreted as victimisation;
- Conflict Coaching may help you to resolve any future issues more productively. Talk to the manager of OHS about obtaining Conflict Coaching.
- Bring a support person to any mediations or meetings that are held if you want to.
- If a formal complaint has been made against you, you have a right to know what the allegations are, and who made the allegations against you.
- You have a right to tell your side of the story and be heard.

TIP: Don't write any letters while you are angry or upset. Have a Responsible Person assist you with responding to any complaint in writing so that it is factual and does not contain emotionally laden material that may escalate the problem.

If in doubt about the process, or your rights, get in touch with a Responsible Person or OH&S Manager

7. Discrimination

When an employee's personal characteristics are taken into account by the employer with the outcome that an unfavourable decision is made about their employment, this results in unfair treatment or discrimination – unless those attributes are relevant to the employee being able to safely perform the requirements of the job.

Discrimination can be direct or indirect:

Direct discrimination is the more obvious type of discrimination and usually involves less favourable treatment because of a particular characteristic or attribute. For example, Mary is not being offered a job as a mechanic because she is a woman. (This is sex discrimination).

Indirect discrimination is not as obvious as direct discrimination and usually happens because of a policy, rule, practice or requirement that appears to treat everyone equally, but which has the effect of disadvantaging certain Australians such as women, or those with a disability.

For example a former requirement into the police force was that applicants had to be of a certain height. This requirement disadvantaged women and people of certain races (indirect sex and racial discrimination) as they failed to meet the height requirement. The requirement was found not to be reasonable in the circumstances, and now a more general fitness requirement is used that doesn't disadvantage any Australia.