



Catholic Education
Diocese of Cairns
*Learning with Faith
and Vision*

Policy

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Workplace harassment, bullying & discrimination

Purpose

This policy recognises the needs and rights of workers (including volunteers) to seek remedy at school and diocesan level, informally where possible, formally if preferred, and without limiting workers' rights to seek remedy beyond the school.

The policy:

- Defines what constitutes inappropriate behaviours in the workplace and assists employer and worker understanding of the issues concerning workplace harassment, bullying and discrimination in the workplace (**See Attachment 1: Definitions**);
- Informs personnel of the options and processes provided at system level for dealing with instances of workplace harassment, bullying and discrimination (**See Attachment 2: Options for managing a complaint**); and
- Achieves and maintains compliance with regulatory and other requirements.

This policy aims to ensure that if inappropriate behaviours do occur in the workplace, it is dealt with in a serious, sensitive and confidential manner so that the matter can be resolved as quickly as possible for all concerned.

Policy

Catholic Education in the Diocese of Cairns upholds the rights of personnel and others within working environments to be treated with fairness, dignity, and respect in accordance with espoused values and the law.

Any form or method of workplace harassment, bullying and discrimination is unacceptable and will not be tolerated. Catholic Education will take such steps as are reasonable and practicable to respond to and eliminate such behaviour from its workplaces.

Personnel breaching this policy will face consequences under this policy, additional to any that may apply at law. Where possible and appropriate, informal pastoral approaches are preferred to discipline for cases of harassment, or may work in conjunction together with more disciplinary consequences.

All formal complaints will be investigated and a commitment is given that any person making a legitimate complaint of harassment, bullying or discrimination will be fully supported.

Any individual who experiences or witnesses workplace harassment, bullying or discrimination is encouraged to engage procedures to end such behaviour as set out within this document.

IMPACT OF WORKPLACE HARASSMENT, BULLYING AND DISCRIMINATION

Workplace harassment, bullying and discrimination have detrimental effects on people and their workplaces. They can create an unsafe working environment. Examples include the following:

Individuals

The effects of workplace harassment on a person may include:

- High levels of distress, impaired ability to make decisions and poor concentration
- Loss of self-confidence and self-esteem and feelings of social isolation at work
- Panic attacks, anxiety disorders, depression, social phobia and deteriorating relationships with family and friends
- Reduced output and performance, incapacity to work, loss of employment
- Sleep disturbances, such as insomnia or severe tiredness

Organisations

Workplace harassment can have significant human and financial costs for organisations and can lead to:

- The breakdown of teams and individual relationships
- Poor worker health
- Reduced efficiency, productivity and profitability
- Bad publicity, poor public image – becoming ‘known’ as a difficult workplace environment
- Reputational damage in local communities
- Increased absenteeism and staff turnover
- Poor morale and erosion of worker loyalty and commitment

LEGAL CONSIDERATIONS

Employment related harassment, bullying or discrimination may amount to a contravention of the *Anti-Discrimination Act 1991* where it involves discrimination, including sexual discrimination and harassment

Where harassment involves physical assault or threat of assault, the incident becomes a police matter and is dealt with under the *Queensland Criminal Code*.

The *Work Health and Safety Act 2011* imposes responsibility on both employer and employee alike to take care for the well-being of others.

Those making or managing complaints under this policy should apply the principles of natural justice and procedural fairness (**See Attachment 3 – Consideration of legal privilege**). Failure to properly apply these principles could result in actions for defamation.

CATHOLIC VALUES

Workplace harassment, bullying and discrimination undermines the rights of the individual, has a detrimental effect on morale, and diminishes the values of Catholic Education and the Catholic Church itself.

RESPONSIBILITIES

Responsibilities for applying this policy exist at several operational levels:

Systemic responsibilities

- Annual Workplace Harassment, Bullying and Discrimination training for all staff
- Annual Code of Conduct training for all staff
- Posters visible in all school sites displaying intolerance of workplace harassment, bullying and discrimination in the workplace
- Brochures provided to all staff
- Workplace Harassment Officers available for all staff to access
- Support available for all staff
- Procedures for managing employee misconduct
- Regular review of the Workplace Harassment, Bullying and Discrimination Policy

Catholic Education Services Responsibilities

- To provide a safe workplace under Workplace Health & Safety Legislation.
- To honour expressed and implied contractual obligations to workers.
- To have policies and procedures in place to appropriately address conflict issues
- To provide workers with opportunities to understand their rights and obligations under faith values, CES policies and the law.
- Treat all complaints seriously

Principal Responsibilities

- To ensure understanding of Catholic Education Services policy and procedures on workplace harassment
- Ensure that personnel have access to Diocesan Officers for Workplace Harassment
- Take all reasonable steps to ensure that all personnel are of the procedures for resolving complaints
- Arranging appropriate in service on workplace harassment
- Taking all reasonable steps to monitor the workplace environment and ensure that high professional standards of behaviour are maintained, and that early remedial action is possible
- Personally demonstrate appropriate behaviour
- Promote workplace harassment, bullying and discrimination policy
- Treat all complaints seriously
- Ensure that where a person lodges or is witness to a complaint, that this person is not victimised

Employee Responsibilities

- To fulfil their contractual obligations under the faith values and the law.
- To support and comply with CES Code of Conduct and Policies.
- Not to wilfully or in breach of policy place at risk the health, safety and wellbeing of any employee at the workplace
- All workers are to behave responsibly by complying with policy and legislation regarding workplace harassment, bullying and discrimination
- Staff are not to tolerate unacceptable behaviour
- Maintain confidentiality of any matters
- Report incidents of workplace harassment, bullying or discrimination.

OUTCOME OF INVESTIGATIONS

If a complaint of workplace harassment, bullying or discrimination is substantiated, action will be taken to prevent further incidents. Such actions depending on the seriousness of the offence may include:

- Counselling, mediation;
- Disciplinary letter or warning;
- Ensuring the respondent attends appropriate in-service or courses on workplace bullying;
- Implementation of the misconduct procedure to address improper conduct;

- Termination of employment.

If a complaint of workplace harassment is found to be vexatious or malicious, the above-mentioned actions may be taken against the complainant as a deliberately false accusation of harassment against another person can be an act of bullying or harassment in itself.

If a complainant is victimised for making a complaint then the above-mentioned actions may also be taken in response to the victimisation.

APPEALS PROCESS

If the complainant or respondent believes the complaint was not handled properly they may appeal in writing, within 30 days with details of why the complaint was unsatisfactory to them to the Executive Director who will:

- Review all relevant material/evidence
- Make further enquires if necessary
- Assess whether the findings reflect the evidence
- Make a determination and advise the party/ies making the appeal of the decision and the reasons
- Determine what further action (if any) is necessary

Reflection

Work Health and Safety Act 2011

Criminal Code

Anti-Discrimination Act 1991

See also (Related Policies and Guidelines)

Procedures for Workplace Investigations

Guidelines – Managing Employee Misconduct

Policy Statement – Maintaining Right Relations (Grievance Policy)

Attachment 1: Definitions

HARASSMENT

The term “harassment” includes any work related, repeated behaviour, by a person, including the person’s employer or co-worker(s), students, or parents/guardians that:

- is unwelcome and unsolicited;
- the person considers to be offensive, intimidating, humiliating or threatening; and
- a reasonable person would consider to be offensive, humiliating, intimidating or threatening.

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

Repeated behaviour refers to the constant nature of the behaviour, not the specific type of harassing behaviour. Behaviour is considered ‘repeated’ if an established pattern can be identified. The method of harassment can occur in person, online or via public communication.

Examples of behaviour that can be construed as harassment:

Physical harassment	<ul style="list-style-type: none">• Unnecessary and unwelcome physical contact which would not constitute sexual harassment;• Assault or attempted assault.
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Verbal harassment	<ul style="list-style-type: none">• Yelling, screaming abuse, offensive language, insults, name calling and threatening behaviour;• Teasing or regularly being made the brunt of pranks and practical jokes;• Making inappropriate comments about a person’s appearance, life or lifestyle or slandering a worker or his/her family. Spreading malicious gossip/rumours
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Non-verbal harassment	<ul style="list-style-type: none">• Mimicking or making fun of the attributes or personality of another person;• Tampering with a worker’s personal effects or work equipment and causing or threatening to cause damage to a worker’s personal or work property;• Displaying written or pictorial material which degrades or offends a worker or group of personnel.
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Professional harassment	<ul style="list-style-type: none">• Undermining or sabotaging work performance;• Unexplained job changes, meaningless tasks or tasks beyond a person’s skills;• Denying opportunities for training, promotion or interesting work;• Overwork – unnecessary pressure or impossible deadlines;• Unreasonable “administrative sanctions” such as undue delay in processing applications for training, refusal of leave or payment of wages;• The threat of dismissal or other severe punishment for no reason.
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Sexual harassment	<ul style="list-style-type: none">• Unwelcome/suggestive comments about a person’s alleged sexual activities or lifestyle;• Unnecessary familiarity such as deliberately brushing against someone, physical contact, indecent exposure;• Offensive telephone calls, emails or text messages;• Sexual or smutty jokes;• Unsolicited letters, gifts, faxes.
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NOTE: Some sexual harassment could be considered sexual assault / abuse which is a criminal offence

BULLYING

Workplace bullying is the repeated, unreasonable behaviour directed towards an employee or group of employees that creates a risk to health & safety.

Even if a victim of bullying does not wish to make a complaint, the employer’s health and safety legislative obligations may require the issue to be investigated and make findings about the behaviour to ensure that it does not occur again.

Examples of bullying may include:

- Repeated shouting or swearing at an individual
- Public humiliation and/or insults
- Intimidating behaviour
- Persistent, excessive, unfair or unjustified criticism
- Aggressive communications
- Unjustified excessive monitoring and/or supervision

DISCRIMINATION

Discrimination refers to a situation where an individual feels they are treated less favourably than another person.

Examples of discrimination:

Direct discrimination	Occurs when a person is treated less favourably on the grounds of a personal characteristic, such as sex, parental status, race, age or disability
Indirect discrimination	Occurs when a policy or procedure which appears to treat everyone equally has the effect of disadvantaging certain groups and the requirement is not reasonable. Indirect discrimination occurs when a neutral, or seemingly harmless, policy, rule or practice has a discriminatory effect against a certain group of people
Racial discrimination	Is a form of behaviour which disadvantages people because of their race, colour, national or ethnic origin or disadvantages any relative or associate of these people
Sex discrimination	Is a form of behaviour that disadvantages people because of their gender. Treating a woman less favourably because she is pregnant, or because she might get pregnant is a form of sex discrimination, as is treating someone less favourably (a man or a woman) because of their marital status.
Disability discrimination	Is a form of behaviour that disadvantages people because of their actual or perceived disabilities or disadvantages those related or associated with a person with a disability.

ACTIONS THAT ARE NOT WORKPLACE HARASSMENT, BULLYING OR DISCRIMINATION

Legitimate and reasonable management actions and business processes, such as, actions taken to transfer, demote, discipline, redeploy, retrench or dismiss a worker are not considered to be workplace harassment, provided these actions are conducted in a reasonable way.

The following points would not normally indicate instances of workplace harassment, bullying or discrimination should they be undertaken in accordance with the above principles:

- Professional differences of opinions or personal differences of opinion
- Performance management processes and diminished performance
- Disciplinary actions
- Business processes, such as, workplace change or restructuring
- Occasional conflicts in working relationships
- A decision not to provide a promotion in connection with the worker’s employment
- Injury and illness processes
- Any other reasonable management action, taken in a reasonable way

WORKPLACE HARASSMENT OFFICERS

Workplace harassment officers are persons from within the Diocese who have been trained to act as information providers and confidential support to persons regarding perceived bullying, discrimination and other forms of harassment. Their role is:

- To ensure that all personnel have access to support and information, and to act as the point of contact and liaison between employer and worker
- To provide confidential information both to staff experiencing workplace harassment and to the Principal who may need assistance in addressing an issue at the workplace

NOTE: The workplace harassment officer will not attempt to resolve matters or deal in any way with the alleged harasser. While the workplace harassment officer may assist a worker to choose what action he/she wishes to initiate, there is no active participation in any investigative process.

Attachment 2: Options for managing a complaint

All Schools and Catholic Education Services will deal with all complaints of harassment, bullying and discrimination promptly, sensitively and in confidence. Three options are available:

Step 1	Personal Resolution – Informal Option <i>This approach is important when the harassment, bullying or discrimination, for example, is of a subtle nature and a person may lack insight into its unacceptable nature</i>	<ul style="list-style-type: none">• Individuals experiencing harassment, bullying or discrimination may consider approaching the other party in the first instance to seek private, informal resolution of the matter. In many instances the behaviour stops once the person is clearly made aware that his/her behaviour is unacceptable.• The Principal / Manager is available to provide support and/or information to individuals seeking such an approach.
Step 2	Discuss with School Principal or member of School Leadership Team – Formal Option at Local Level	<ul style="list-style-type: none">• If the matter has been unable to be resolved by the Personal Resolution step above, or if the individual does not feel able to address the matter using the step above, the matter should be referred to the Principal or member of the Leadership Team to investigate.• A meeting between both parties with the Principal present will be set up with a view to resolving this matter expeditiously.• The matter, if resolved, will continue to be monitored for a period of time to ensure that no further incidents of harassment, bullying or discrimination occur.
Step 3	Lodge a Formal Complaint	<ul style="list-style-type: none">• If the individual experiencing harassment, bullying or discrimination does not wish to pursue processes as outlined above or if these processes have proven unsatisfactory, the individual may initiate a formal complaint.• A formal complaint should be lodged in writing to the Principal or Employee Services Manager at CES• The incident should be described in detail and include any steps which have already been taken to address the matter.• The complainant may seek the assistance of a support person, both in formulating the complaint and attending any subsequent interviews.• Upon receipt of the complaint, the matter will be addressed in accordance with <i>The General Overview of Employee Misconduct processes</i>.• The respondent will be made aware of the complaint at the earliest opportunity, before an investigation is initiated and will be advised of their rights in accordance with natural justice.

NOTE: Should the harassment, bullying or discrimination be considered to constitute serious misconduct on the part of a staff member, or involve possible criminal actions, the Executive Director should be informed immediately.

EXTERNAL ADVICE

Staff members also have the right to approach the relevant union or external consultants to seek information on, or report instances of, workplace harassment, bullying or discrimination.

While it remains the responsibility of CES to investigate and resolve these complaints, external consultants can assist by:

- Providing confidential advice and information to an employee who raises a query or concern regarding a workplace incident or behaviours;
- Providing support in instances of workplace harassment, bullying or discrimination including representation at any relevant investigative interviews or meetings;
- Providing information on the options open to resolve cases of workplace harassment, bullying or discrimination.

Attachment 3: Consideration of legal privilege

- An allegation that an individual has harassed, bullied or discriminated against another involves a serious imputation in relation to an alleged harasser's character which may affect his or her reputation.
- The principles of natural justice and procedural fairness protect the rights and interests of all employees. The employee is informed of all allegations made against them and may be informed of the identity of the complainant.
- Complainants and those investigating a complaint are protected against defamation actions where the complaint is made in good faith through the proper channels.
- It is not defamatory for the complainant to confront the alleged harasser directly and in private, nor to send a private letter to the alleged harasser outlining the offensive behaviour as this does not in itself damage a person's reputation.
- An individual with a recognised legitimate interest in investigating or resolving a complaint, either formally or informally is protected by the defence of qualified privilege.
- Accordingly, it is quite lawful for a complainant acting in good faith to report a complaint to the appropriate employer representative or nominated Workplace Harassment Officer or to the relevant Union or external consultant.
- If the complaint is not made in good faith, is motivated by an improper purpose and lodged for a malicious reason within any basis, or if the complainant broadcasts the matter indiscriminately, then the protection is lost.
- Where it is made to a person other than the alleged harasser, it is in the absence of the circumstances set out below, defamatory.
- The possibility of being sued for defamation arises when a complainant conveys the information to anyone other than the alleged harasser, or to persons who have no legitimate reason for knowing.
- The law recognises that statements which would ordinarily be defamatory may be made by a person in the performance of legal, moral or social duty to a person with a corresponding duty to receive it.