



EFFECTIVE DATE	1 July 2020
REVIEW DATE	1 July 2023
POLICY OWNER	Chancery
APPLIES TO	This Policy applies to clergy, religious, employees, board members, contractors (as defined and in relation to WHS legislation and a one member corporation), volunteers, work experience students and trainees (Workers) of the Diocese.
EXCLUSIONS	Where an agency or entity of the Diocese has its own policy, the relevant agency or entity policy will apply to Workers engaged by those agencies or entities. In the event of conflict between the policies of agencies or entities and the Diocesan policy, the Diocesan policy prevails.
RELATED POLICIES, GUIDELINES & PROCEDURES	Code of Conduct Workplace Complaints Policy
REFERENCE	<i>Fair Work Act 2009 (Cth)</i> <i>Age Discrimination Act 2004 (Cth)</i> <i>Disability Discrimination Act 1992 (Cth)</i> <i>Racial Discrimination Act 1975 (Cth)</i> <i>Sex Discrimination Act 1984 (Cth)</i> <i>Anti-Discrimination Act 1977 (NSW)</i>
RELATED FORMS	There are no forms related to this policy.
HEADINGS	Objective Definitions Policy <ul style="list-style-type: none"> 1. What is Workplace Discrimination <ul style="list-style-type: none"> 1.1 Examples of direct and indirect unlawful workplace discrimination 1.2 Examples of lawful workplace discrimination 2. What is Workplace Harassment <ul style="list-style-type: none"> 2.1 Examples of workplace harassment 2.2 What is not workplace harassment 3. What is Workplace Bullying <ul style="list-style-type: none"> 3.1 Examples of workplace bullying 3.2 What is not workplace bullying 3.3 How is bullying different from discrimination 3.4 Who is covered by anti-bullying laws?

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OBJECTIVE

This policy informs Workers engaged by the Trustees of the Roman Catholic Church for the Diocese of Lismore about inappropriate workplace behaviours and makes them aware of their obligations and responsibilities in respect of their behaviour and the behaviour of others in the workplace

DEFINITIONS

Diocese means the Roman Catholic Diocese of Lismore and includes without limitation any parishes where the Worker is employed or otherwise engaged.

Worker means clergy, religious, employees, board members, contractors, volunteers, work experience students and trainees of the Diocese.

POLICY

1. What is Workplace Discrimination

Workplace discrimination occurs when someone is subject to unfair treatment in employment because they belong to a particular group of people or have a particular personal characteristic that has been specified in law as a ground for discrimination. Some grounds for discrimination recognised by law include:

- sex or gender;
- marital status, pregnancy, potential pregnancy, parental status and family responsibility;
- sexual preference, sexuality or gender identity;
- disability, impairment or handicap;
- race, colour, national or ethno-religious origin, nationality, ethnicity, descent or ancestry;
- age;
- religious or political belief or activity;
- trade union activity;
- victimisation; and
- personal association with or relation to any person who is identified on the basis of any of the above attributes.

There are two kinds of discrimination, direct and indirect:

- **Direct discrimination** occurs if a person treats or proposes to treat someone unfavourably due that person's personal characteristics.
- **Indirect discrimination** can occur when there is a rule or condition that is the same for everyone but in effect disadvantages people from a particular group more than people from other groups. The rule may seem equitable and unbiased at face value. A rule or condition is not discriminatory if it is reasonable in the circumstances.

1.1. Examples of direct and indirect unlawful workplace discrimination

Direct Discrimination	Indirect Discrimination
Refusing to employ someone <u>solely</u> because of their age despite them being able to undertake the requirements of the position.	Prescribing an inflexible working hours policy where such rigidity in hours is not required.

Terminating someone's employment <u>solely</u> because of their family responsibilities.	Scheduling meetings or training sessions at times that would disadvantage people with carer's responsibilities e.g. very early or very late in the day.
Not promoting someone <u>solely</u> because of their disability despite them being able to undertake the duties of the position.	A requirement that all staff speak fluent English regardless of their role when this is not an inherent requirement for all roles within the organisation.

1.2. Examples of lawful workplace discrimination

Treating someone differently is not necessarily unlawful discrimination and in many circumstances workplace discrimination will not be considered unlawful. Discrimination on the ground of religion may be exempt in relation to employment of people by religious institutions where such discrimination is required by the tenets and doctrines of the religion, is not arbitrary and is consistently applied or where religion is an inherent requirement of a particular job.

Examples of where discrimination is lawful are:

- where a religious body will only select persons of the religion upon which the religious body is based for ordination, appointment as a priest or minister; action is taken against a person by an organisation in circumstances where the organisation is run in accordance with its religious beliefs and the action is taken to avoid injury to the religious susceptibilities of those persons who are adherent of that religion;
- where there are genuine occupational requirements for a person of a particular sex, race or age to be appointed to a role;
- where a person is being performance managed because their daily duties have been changed while they are undertaking a performance management program to improve their performance; and
- where a person has a disability and the discrimination occurred because the person is unable to perform the inherent requirements of a role because of their disability and no reasonable adjustments could have been made by the employer to allow them to perform the inherent requirements of the role.

2. What is Workplace Harassment

Workplace harassment generally consists of a pattern of unwelcome behaviour however, it can consist of just one act where this is of a serious nature. It can include workplace behaviour that is:

- unwelcome, uninvited or unreciprocated;
- verbal or nonverbal;
- physical or nonphysical;
- offensive, humiliating or intimidating; and/or
- based on a ground of unlawful discrimination.

It is irrelevant whether the harasser intends to offend or harm for their behaviour to constitute harassment. It is also irrelevant that the recipient failed to indicate, at the time, that they objected to the behaviour.

Sexual harassment is a form of harassment on the ground of sex or conduct of a sexual nature such as unwanted sexual advances, unwelcome requests for sexual favours or physical contact, derogatory sexual comments, taunts, intrusive questions and rumours. It can include verbal comments or abuse, physical contact,

threats, displaying inappropriate and offensive images or documents, stalking, offensive communication, jokes and ridicule, propositions, and inappropriate initiation rites.

2.1. Examples of workplace harassment

Verbal	Non-Verbal
Sexist or racist jokes	Suggestive looks or stares
Comments of a sexual nature	Offensive hand or body gestures
Repeated unwelcome invitations	Sexually explicit emails or posters
Imitating someone's accent	Invading someone's personal space

2.2. What is not workplace harassment

Workplace harassment, including sexual harassment, does not include behaviour which is consensual, welcome and reciprocated by the recipient.

3. What is Workplace Bullying

A Worker is bullied at work if:

- a person or group of people repeatedly act unreasonably towards them or another group of workers; and
- the behaviour creates a risk to health and safety.

Unreasonable behaviour includes victimisation, humiliation, intimidation or threats. Whether behaviour is unreasonable is objective and not subjective. This means deciding whether the behaviour is unreasonable depends on whether a reasonable person (a third party) might see the behaviour as unreasonable in the circumstances and not how the worker sees the behaviour.

Bullying can occur at all levels in the workplace i.e. upwards, downwards or laterally. This means that bullying behaviour can not only be toward a worker by their supervisor but also by a worker toward their supervisor and between fellow workers or peers.

3.1. Examples of workplace bullying

Physical	Psychological
Repeated loud, abusive, threatening language.	Repeated silent treatment.
Repeated subjection to practical jokes.	Repeatedly assigning unpleasant or meaningless tasks unrelated to the position.
Offensive phone messages, texts or emails.	Repeated and deliberate withholding of information that is vital to effective work performance.
Repeated ridicule or put downs in front of others.	Repeated exclusion or isolation.

3.2. What is not workplace bullying

Workplace bullying does not include:

- occasional differences of opinion or problems in working relationships;
- reasonable management action carried out in a reasonable manner; or
- reasonable disciplinary procedures.

It is important to understand that a manager can make decisions about poor performance, speak to an employee about their performance, take disciplinary action and, direct and control the way work is carried out. These management actions, carried out reasonably, do not constitute bullying.

3.3. How is bullying different from discrimination

Discrimination happens when there is an adverse action such as terminating employment or demotion because of a person's characteristics that come within defined grounds for discrimination. Bullying happens when someone in the workplace repeatedly behaves unreasonably towards another person or group of people and causes a risk to health and safety in the workplace. This behaviour doesn't have to be related to the person or group's characteristics and adverse action doesn't have to have happened.

3.4. Who is covered by anti-bullying laws?

The National anti-bullying laws cover all national system employees as well as:

- outworkers;
- students gaining work experience;
- contractors or subcontractors; and
- volunteers.

4. Reporting Inappropriate Workplace Behaviours

Individuals wishing to raise a concern about inappropriate workplace behaviour should do so by following the procedure outlined in the Diocesan Workplace Complaints Policy.

BREACHES OF THIS POLICY

Breaching this Policy may result in disciplinary action, which may include the termination of employment or engagement and, notification to external agencies including without limitation professional standards associations, regulatory agencies and police.

REVISION/ MODIFICATION HISTORY

Date	Version	Current Title	Summary of Changes	Approval Date	Commencement Date
1 May 2020	1	Inappropriate Workplace Behaviour Policy	Initial Policy	15 June 2020	1 July 2020

APPROVAL DATE/ REVISION HISTORY

Approved by: Bishop Gregory Homeming

Date: 15 June 2020

To be revised: 1 July 2023