Prevention of Workplace Harassment and Bullying

Purpose

This process supports policy POL-PEO-01 Prevention of Workplace Harassment and Bullying and guides the actions required for the prevention and management of workplace harassment and bullying as required under the Work Health and Safety Act 2011 and the Code of Practice 2004 and any orders required to be undertaken by the Fair Work Commission in accordance with the Fair Work Act 2009.

This process exists as workplace harassment and bullying is a risk to the health and safety of persons in a workplace or activity as incidences have a potential affect the physical and mental health of the person. Specifically, workplace bullying relates to the misuse or abuse of power in relationships between persons in the workplace or activity. It is behaviour that is considered unreasonable and often contains behaviour that intimidates, offends, degrades or humiliates a person.

Workplace harassment and bullying includes behaviour that may be carried out in a variety of ways including through email or text messaging, internet chat rooms, instant messaging or other social media channels or in person. Workplace harassment and bullying can be directed at a worker or group of workers and be carried out by one or more workers. Bullying is defined as repeated and unreasonable behaviours which can occur:

- sideways between workers;
- downwards from managers to workers; and
- upwards from workers to managers/supervisors.

Workplace bullying does not include reasonable management action carried out in a reasonable manner.

Scope

This process applies to:

- all persons which includes but is not limited to ministry agents, employees (lay staff), contractors and volunteers engaged in work and activities of the Uniting Church in Australia within the bounds of the Queensland Synod office including Trinity College Queensland, Raymont Lodge Residential College and the Alexandra Park Conference Centre; and
- all workplaces and off-site activities, attendance at other functions as well as social functions and celebrations, trips and conference attendance; and
- all work-related interactions with each other and interactions with others of the Uniting Church and the community; and
- applies in addition to any Regulation of the Uniting Church in Australia. In the event of an inconsistency between the Regulations, compliance with the legislation prevails.

Process

1. Duties in the prevention and management of workplace harassment and bullying

1.1 Persons in Control of a Workplace

Persons in control of a workplace (managers/supervisors) are accountable for the conduct of all persons under their management. It is integral to the responsibilities of a manager/supervisor that they identify, prevent or redress potential workplace harassment and bullying issues in the workplace before such behaviours become the subject of complaints. Managers/supervisors who observe inappropriate behaviour have a duty to raise it with the person or persons and to take further action if the behaviour does not cease.
Managers/supervisors are responsible for ensuring the workplace or activity is free of workplace harassment and bullying so far as is reasonably practical. This is achieved by being alert to the possibility of workplace harassment, bullying and sexual harassment through monitoring key indicators such as workplace culture, higher absenteeism and higher staff turnover and must take appropriate action if they become aware of any incidences. This responsibility may take the form of discussions with the person or persons, initiating training, arranging workplace information or initiating another appropriate response after consultation with the Human Resource Manager. To achieve this, the duties of the managers/supervisors are to:

- Ensure their behaviour provides a model of the standards required for their workplace or activity;
- Actively promote and support the Synod office’s policy and processes for the prevention and management of workplace harassment and bullying through utilising performance management or The Uniting Church in Australia Regulations to address and rectify workplace behaviours of persons;
- Communicate to all persons in the workplace or activity that harassment and bullying is not acceptable and complaints will be treated seriously;
- Implement control measures to prevent or control the exposure to the risk of further harassment once a situation is identified;
- Ensure all persons are aware of the processes available to them and that they have access to the policy and process to understand their rights;
- Investigate all workplace harassment and bullying claims with complete impartiality and confidentiality as prescribed in The Uniting Church in Australia Regulations for ministry agents and this process (PRO-PEO-01 Prevention of Workplace Harassment and Bullying) for all employees, contractors and volunteers;
- Ensure that all persons are not victimised or penalised for making a complaint about harassment or bullying;
- Actively encourage all persons in the workplace to attend training courses designed towards zero tolerance to workplace harassment and bullying; and
- Provide and maintain a work environment that is without risks to health and safety as a result of workplace harassment and bullying.

1.2 All persons

All persons at a workplace or an activity have a work health and safety duty to ensure that their behaviour does not adversely affect the health and safety of other persons and their duties are to:

- Not to engage in behaviours which may constitute workplace harassment or bullying;
- Comply, so far as is reasonably practicable with any reasonable instruction given by the manager/supervisor to prevent workplace harassment and bullying;
- Ensure that all persons are treated fairly and sensitively and do not participate in, or ignore any behaviour that is offensive;
- Report any improper behaviour to a manager/supervisor or to the Human Resource Manager;
- Maintain complete confidentiality concerning any complaint or investigation;
- Not make false or vexatious complaints of harassment or bullying as untrue allegations may be subject to disciplinary measures;
- Work within the policies and processes of the Queensland Synod office.

1.3 Human Resource

- Maintain and communicate the requirements of this policy and process to all persons covered under the scope of the policy;
- Ensure compliance with the policy and process and support managers/supervisors to be able to identify the warning signs of workplace harassment and bullying to enable them to make an initial response;
- Provide training, information, assistance and support to all persons covered under the scope of this policy; and
2. In the event of workplace harassment and bullying

All persons who feel that an incident of workplace harassment or bullying has occurred should endeavour to deal with the matter directly with the other party as detailed in Step 1 below or another Step as appropriate.

In considering the action to take, be mindful that some instances of bullying can be a criminal offence if you have experienced violence, assault or stalking. These instances of abuse should be reported directly to the police by telephoning Triple Zero (000) or if it is not an emergency, Policelink on 131 444. In either of these situations, the Human Resource Manager must be advised.

3. Resolution Steps

Step 1: Informal

To avoid escalation, tell the person behaving in an offensive way that their behaviour is unacceptable and that they should stop or change their behaviour. Although this may be difficult, the issue is best confronted and dealt with immediately between both parties. In the event you feel unable to do this, speak to your manager/supervisor for advice and support.

Step 2: Involving your Manager/Supervisor - formal

If you are unable to undertake Step 1, or the person does not stop the behaviour after you have spoken to them, you must tell your immediate manager/supervisor. At all times you and your manager/supervisor must make sure that confidentiality is maintained. The names of anyone involved in the complaint must not be discussed with others except those immediately involved in the complaint.

Your immediate manager/supervisor must address the matter within five working days of being notified by you, either by resolving the complaint in consultation with the parties, or negotiating an agreed method and timeframe for proceeding. If the complaint cannot be resolved at this level, or you do not wish to discuss the complaint with your manager/supervisor, or your manager/supervisor is a party to the workplace harassment or bullying, you must raise the complaint with the Human Resource Manager.

Where a complaint of workplace harassment has been made against the manager/supervisor, the complaint investigation will be conducted internally by the responsible person next level up from the manager/supervisor or by another appointed appropriate person or an external investigator. In such cases, the resolution process will have the oversight of the Human Resource Manager.

Where a complaint of workplace harassment or bullying has been substantiated, the manager/supervisor, or other person responding to the complaint must consult with the Human Resource Manager to determine the action to be taken. The appropriate action will be determined depending on the nature and circumstances of the complaint or the processes as so determined by the Regulations for ministry agents.

For employees, contractors and volunteers, the actions may include

- Verbal or written apology;
- One or more parties agreeing to participate in counselling or training;
- Formal counselling;
- Written warning;
- Transfer;
- Demotion or dismissal of the person engaged in the bullying or harassing behaviour following due process.
Step 3: Involving Human Resource - formal

Where a complaint has been referred to the Human Resource Manager to action, the matter will be actioned within five working days of the notification, either by resolving the complaint in consultation with the parties, or negotiating an agreed method and timeframe for action. If for any reason you do not feel you can approach the Human Resource Manager, or if you believe they are not appropriate to handle the complaint, the General Secretary should be consulted to identify a person responsible for managing the complaint process.

Where a complaint is substantiated, the action taken will be consistent with that above in Step 2.

Step 4: Involving external agencies – formal

Where a person has taken action as described in any one or more of the Steps 1 to 3 above and there has not been a satisfactory resolution, all persons may contact the following bodies:

1. In relation to workplace harassment and bullying
   a. Fair Work Commission,
   b. Workplace Health and Safety Queensland
   c. Australian Human Rights Commission
2. In relation to sexual harassment:
   a. Anti-Discrimination Commission Queensland
   b. Australian Human Rights Commission

Should any person take this avenue to gain a resolution, the Human Resource Manager must be notified prior to the lodgement of a complaint within any of the jurisdictions.

4. Mandatory considerations required through Steps 1 to 4

   4.1 Confidentiality

   An accusation of workplace harassment or bullying can be potentially defamatory and there is the potential for unfair victimisation to result from a complaint being lodged. Confidentiality should be respected and maintained at all times when taking corrective action or responding to claims of workplace harassment and bullying.

   Only the people directly involved in a complaint or in resolving it, should have access to information about it. Those involved should also be told about the requirements of confidentiality and their resulting obligations. Discussions, information and records related to complaints will remain factual. When confidentiality cannot be guaranteed, this must be clearly indicated.

   4.2 Respect

   All persons have a right to be treated with respect. All persons have a right to be informed of what has been alleged against them to enable them to put their case in reply.

   4.3 Impartiality

   All persons have the right to be treated with impartiality and for any decision to be made by an impartial decision-maker. All persons have the right to appeal against a decision.

   4.4 Timeliness

   Any allegations of workplace harassment or bullying must be actioned or investigated in a timely fashion and action must be taken to facilitate a timely resolution to the issue for those involved.
4.5 Natural Justice

The principle of Natural justice must be shown to persons accused of wrong doing by:

- The respondent being advised or provided in writing details of the complaint made against them.
- The respondent being given an opportunity to respond or explain prior to a decision being made.
- The person making the decision in relation to the allegation will do so without bias.

4.6 Standard of Proof

A standard of proof must be obtained in relation to allegations where there is conflicting or inconsistent evidence given between the parties involved.

- A claim must be able to be proved either on the balance of probabilities to be dealt with by the Queensland Synod Office.
- A claim must be able to be proved beyond reasonable doubt to be actioned.

5. Maintaining Records

All records in relation to the reporting and investigation of a workplace bullying or harassment complaint must be stored in a confidential file within Human Resource. All records in relation to any disciplinary outcomes must be stored on the individuals file held within Human Resource.

6. Frivolous or Vexatious Complaints

Where a person or group of persons harass or victimizes another person who lodges a complaint, or if a complaint was made by a person and it is found to be malicious, frivolous or vexatious, disciplinary action may be taken against the person or persons.

7. Breach of Policy

Where it is proven that a person has breached this policy or its process action may be taken which may result in but is not limited to any one or more of the following:

- Formal counselling;
- Written warning;
- Transfer;
- Demotion or dismissal of the person engaged in the bullying or harassing behaviour; or
- Notification to an external authority.

The appropriate action will be determined depending on the nature and circumstances of the breach of policy. In the event of a breach being determined, the General Secretary will approve the appropriate response.

Dictionary

<table>
<thead>
<tr>
<th>Term</th>
<th>Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Queensland Synod</td>
<td>Means the work and activities of the Uniting Church in Australia performed within the bounds of the Queensland Synod office including the Trinity Theological College, Raymont Lodge Residential College and the Alexandra Park Conference Centre.</td>
</tr>
<tr>
<td>Person in control of a workplace</td>
<td>Means the manager/supervisor responsible for ministry agents, employees and volunteers in a workplace or engaged in an activity of the Queensland Synod office.</td>
</tr>
<tr>
<td>Worker</td>
<td>Means also person or individual and refers to any lay staff, ministry agent, contractor or volunteer engaged in work or an activity within the bounds of the Queensland Synod office including Trinity College Queensland, Raymont Lodge Residential College and the Alexandra Park Conference Centre.</td>
</tr>
</tbody>
</table>
### Definition of Workplace Harassment

The Prevention of Workplace Harassment Code of Practice 2004 as required under the Work Health and Safety Act 2011 and the Work Health and Safety Regulation 2011 defines workplace harassment to cover a wide range of behaviours that can have an adverse impact on the health and safety of employees other than sexual harassment. Workplace harassment occurs when an employee is subjected to repeated behaviour by another employee, including the employer or a co-worker or group of co-workers, a client, a customer or a member of the public that is unwelcome and unsolicited; considered to be offensive, intimidating, humiliating or threatening; and a reasonable person would consider being offensive, humiliating, intimidating or threatening.

### Attributes of Workplace Harassment

The following behaviours may be regarded as workplace harassment if the behaviour is repeated or occurs as part of a pattern of behaviour. This list is not exhaustive but is intended to provide examples of the more common types of behaviours ranging from subtle intimidation to more obvious aggressive tactics that can constitute workplace harassment.

- Abusing an employee loudly, usually when others are present
- Repeated threats of dismissal or other severe punishment for no reason
- Constant ridicule and put down
- Leaving offensive messages on email or the telephone
- Sabotaging an employee’s work, for example, by deliberately withholding or supplying incorrect information, hiding documents or equipment, not passing on messages and getting an employee into trouble in other ways
- Maliciously excluding and isolating an employee from workplace activities
- Persistent and unjustified criticisms, often about petty, irrelevant or insignificant matters
- Humiliating an employee through gestures, sarcasm, criticism and insults, often in front of customers, management or other employees
- Sabotaging or hindering a person’s work, for example, by deliberately withholding or supplying incorrect information, hiding documents or equipment, not passing on messages and getting an employee into trouble in other ways
- Spreading gossip or false, malicious rumours about an employee with the intent to cause the employee harm
- Management action where it is used primarily to offend, intimidate, humiliate or threaten an employee or to create an environment where workplace harassment is more likely to occur.

### What is not Workplace Harassment

- A single incident of harassing type behaviour
- Reasonable management action taken in a reasonable way
- Constructive feedback or counselling on work performance or work related behaviour deemed appropriate and reasonable
- Constructive feedback or counselling intended to assist an employee improve their work performance or the standard of their behaviour.

### 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. Not all behaviour that makes a person feel upset or undervalued at work is classified as workplace bullying. 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, but are not limited to:

- Abusive, insulting or offensive language or comments
- Unjustified criticism or complaints
- 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 to the detriment of the worker
- Spreading misinformation or malicious rumours
- Changing work arrangements, such as rosters and leave, to deliberately inconvenience a particular worker or workers.

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.

### What is not considered to be workplace bullying

Reasonable Management Action Taken in a Reasonable Way
It is reasonable for managers and supervisors to allocate work and to give fair and reasonable feedback on a worker’s performance. These actions are not considered to be workplace bullying if they are carried out lawfully and in a reasonable manner, taking the particular circumstances into account. Examples of reasonable management action can 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 worker for operational reasons
- Deciding not to select a worker for promotion where a reasonable process is followed
- Informing a worker of their unsatisfactory work performance
- Implementing organisational changes or restructuring
- Taking disciplinary action including suspension or termination of employment.

### Difference of Opinion

Differences of opinion and disagreements are generally not considered to be workplace bullying. People can have differences and disagreements in the workplace without engaging in repeated, unreasonable behaviour that creates a risk to health and safety. However, in some cases, conflict that is not managed may escalate to the point where it meets the definition of workplace bullying.
References & Related Documents

- **Prevention of Workplace Harassment Code of Practice 2004**
- **Workplace Health and Safety Act and Regulations 2011**
- **Fair Work Act 2009**
- **Fair Work Commission**
- **Australian Human Rights and Commission Act 1986**
- **Anti-Discrimination Act (1991)**
- **Dealing with Workplace Bullying – A Worker’s Guide**
- **POL-0001 Privacy**
- **POL-PEO-02 Anti-Discrimination and Employment Equity**
- **POL-PEO-03 Grievance Management**
- **The Uniting Church in Australia Regulations**

Revisions & Reviews

<table>
<thead>
<tr>
<th>#</th>
<th>Date</th>
<th>Reason</th>
<th>Author / Reviewer</th>
<th>Approved</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.0</td>
<td>01.06.16</td>
<td>Review of policy and development of new processes to support policy</td>
<td>I Waters (People &amp; Projects)</td>
<td>GNRC 22/6/16 Res 16.053</td>
</tr>
<tr>
<td>DUE</td>
<td>01.06.19</td>
<td>Review cycle – every 3 years</td>
<td>By Human Resource Manager</td>
<td></td>
</tr>
</tbody>
</table>