



Diocese of Cairns Policy and Procedure

Guideline/Procedure no:	TBA
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Approved by:	Bishop of Cairns – DFC Meeting

Anti-discrimination and Sexual Harassment

1. Purpose

The purpose of this policy and procedure is to inform and educate all staff from parishes and diocesan agencies that the Diocese is committed to ensuring a working environment free from unlawful discrimination and sexual harassment; that unlawful discrimination and sexual harassment will not be tolerated under any circumstances and that disciplinary action will be taken against any workplace participant who breaches this policy.

This policy and procedure is not a term of any contract, including any contract of employment. This policy may be varied by the Diocese from time to time.

2. Application

This policy and procedure applies to all workplace participants, including staff (e.g. priests, brothers, sisters, seminarians and employees), volunteers, contractors, agents and clients of the Diocese.

This policy and procedure applies to behaviours that occur:

- In connection with work, even if it occurs outside normal working hours
- During work activities, including interaction with third parties and while working away from the workplace
- At work-related events, for example at conferences and work-related social functions
- On social media where workers interact with colleagues or clients and their actions may affect them either directly or indirectly.

All policies, procedures or guidelines within any parish, agency or other entity of the diocese covering the same content as this policy must be consistent with this policy. In the event of inconsistency, this policy will be the overriding document for all Diocesan entities that have policies of same or similar content.

3. Background

The Diocese believes that all staff should be able to work in an environment free from unlawful discrimination, sexual harassment, vilification and the seeking of unnecessary information on which discrimination might be based. These behaviours are considered unacceptable and will not be tolerated. This policy forms the basis of regular training and awareness raising strategies to ensure that all employees know and understand their rights and responsibilities.

4. Responsibility of staff

The creation of a discrimination free and inclusive workplace and a healthy workplace culture is the responsibility of all staff.

Senior staff have a particular obligation to model appropriate behaviour; promote this policy; treat all complaints seriously and attend to them promptly; monitor the work environment and seek expert help for complex or serious matters.

All staff have the responsibility to comply with this policy, report incidents to their manager and to not allow or participate in discriminatory or harassing behaviour.

5. Policy

“The dignity of every person, independent of ethnicity, creed, gender, sexuality, age or ability is the foundation of Catholic social teaching. No human being should have their dignity compromised.”

Extract from Caritas Australia Values

The Diocese is committed to upholding the dignity of all people and their right to respect, and to safe and supportive relationships at work. This includes the Diocese demonstrating that it is committed to ensuring that the working environment is free from unlawful discrimination and sexual harassment.

All staff and people who have contact with the Diocese are to be treated with dignity, courtesy and respect in a workplace culture of safety and integrity.

The Diocese also seeks to uphold its responsibilities under state and federal legislation in relation to Anti-Discrimination and Sexual Harassment.

Disciplinary action will be taken against any staff who breach this policy.

6. Consequences of breach of the policy

Disciplinary action will be taken by the Diocese against any staff member found to have breached this policy. Action will be appropriate to the breach and may include: an official warning and note on the individual's personnel file; a formal apology; counselling; demotion; transfer; or suspension or dismissal for very serious matters.

Staff who make a complaint of discrimination or sexual harassment will not suffer any victimisation by the Diocese for making the complaint. This also applies to staff who are an actual or potential witness in a complaint or have a complaint made against them.

7. Anti-discrimination legislation

Under the Queensland Anti-Discrimination Act 1991 (the Act) the following are illegal:

- Unlawful discrimination
- Victimisation
- Sexual harassment
- Vilification
- Seeking unnecessary information on which discrimination might be based

Discrimination on any of the following grounds is against the law:

- Race (including colour, descent or ancestry, nationality, national or ethnic origin)
- Age (whether young or older)
- Impairment (including biological, functional, learning, physical, sensory, mobility, cognitive, psychological, psychiatric impairment or the presence of an organism capable of causing disease)
- Sex or gender identity
- Relationship status (including being married, single, divorced, separated, de facto or in a same sex relationship)
- Sexuality
- Pregnancy, breastfeeding, parental status (including being or not being a parent, guardian, foster parent, adoptive parent or step parent)
- Family responsibilities (including the responsibility to care for and support a dependent child or immediate family member)

- Lawful sexual activity as a sex worker
- Trade union activity
- Political belief or activity
- Association with someone else who is identified because of one of the above attributes.

Other behaviour that is against the law includes:

- Seeking unnecessary information on which discrimination might be based
- Victimisation because a person has made a complaint, agreed to be a witness or has had a complaint made against them
- Sexual harassment, which is prohibited under both state legislation and the federal Sex Discrimination Act 1984
- Vilification on the basis of a person's race, religion, gender identity or sexuality
- Discrimination on the basis of criminal record, medical record or social origin.

8. What is discrimination?

Direct discrimination occurs when a person (or a group of people) are treated differently compared to others in similar circumstances because of one or more of the attributes listed above. Direct discrimination may involve, but is not limited to:

Making offensive 'jokes' about another worker's racial or ethnic background, sex, sexuality, age or impairment

Expressing negative stereotypes about particular groups or using stereotypes as a basis for decisions about work e.g. 'Women with young children shouldn't work' or 'Older workers can't learn new skills'

Basing selection on irrelevant attributes such as age, race or impairment rather than on skills needed for the job.

Indirect discrimination occurs when one rule applies to all, but in fact disadvantages a person (or group of people) because they are unable, or less able to comply with the rule because they have a particular attribute (such as the examples listed above). The fact that the disadvantage was not intended is not an excuse. For example:

Requiring everyone to be available for all shifts might be unfair to a person with responsibilities to care for children or an elderly parent

Only hiring people who have never had a back injury or a workers' compensation claim might rule out an employee whose health has returned and can do the job well

Not considering the provision of some reasonable adjustments to accommodate attributes, which would disadvantage a person with an impairment who may be able to perform the essential parts of the job in a different way.

9. What is sexual harassment?

Sexual harassment is any form of unwelcome sexual attention that might offend, humiliate or intimidate the other person and may be experienced by women or men. It includes uninvited touching or physical contact; leering at a person or at parts of their body; talking about your sex life or asking about another person's sex life; sexual jokes or propositions; sexually offensive communications (phone, email, SMS or social media).

Sexual harassment is against the law wherever and whenever it occurs. The Diocese will not tolerate sexual harassment in the workplace or in any work-related context such as conferences, work functions and business trips. Sexual harassment has nothing to do with mutual attraction. Such friendships are a private matter.

Sexual harassment does not have to be repeated or continuous to be against the law. Some actions or remarks are so offensive that they constitute sexual harassment in themselves, even if they are not repeated. Other single incidents, such as an unwanted invitation or compliment, may not be sexual harassment. Some forms of sexual harassment, such as assault, physical molestation, stalking, sexual assault and indecent exposure, are also criminal offences.

The person being harassed does not need to say that the behaviour is unwelcome. Many people find it difficult to express their concerns. All employees are responsible for their own behaviour. Any behaviour which may cause offence should be avoided.

10. Vicarious liability

Under the Act, the person who discriminates against, victimises, sexually harasses, vilifies or asks for unnecessary information can be liable for the illegal behaviour as well as the employer, the Diocese, unless the Diocese can show it has taken reasonable steps to prevent it.

The Diocese provides all staff with information about unlawful discrimination and sexual harassment at induction, and conducts regular awareness training.

Senior staff must ensure that all staff are treated fairly and are not subject to any of the behaviour mentioned in this policy. They must also ensure that people who make complaints, or who are witnesses, are not victimised in any way.

11. Complaints Procedure

A complaint can be made to any manager, supervisor or human resources staff member in the Diocese. The following details some guidelines in relation to managing complaints:

- The complaint does not have to be in writing.
- The complaint will be handled fairly and based on the principles of natural justice. Natural justice means the right to be given a fair hearing and the opportunity to present your case, and the right to have a decision made by an impartial decision maker.
- There will be no victimisation as a result of making a complaint of supplying information to an investigator or other person with a role in this procedure.
- The complaint will be handled confidentially. The person managing the complaint will be independent and impartial of the complaint and any other parties involved. This may be a manager or a person appointed from outside the Diocese.
- All parties to a complaint have the option of nominating a support person to be present.
- All parties to a complaint who require an Auslan or language interpreter will be provided with a professional interpreter.
- The complaint will be dealt with as a matter of priority following these steps:
- The person managing the complaint will discuss the issue with the complainant as soon as possible.
- The person being complained about will be informed of the allegation against them. They will be given an opportunity to respond to the allegations.
- Statements from witnesses and any other relevant evidence will be collected.
- This part of the complaint process will be completed within a reasonable timeframe.
- A report documenting the investigation process, the evidence, findings and recommendations will be prepared and submitted to the appropriate decision maker.
- The director /senior manager will decide what action will be taken in relation to them. If the outcome is not acceptable to the parties, an appeal can be made to the CEO to review the complaint and outcome.
- The director / senior manager will implement the recommended actions.
- The CEO will monitor the outcomes of complaints and take appropriate action to prevent further complaints arising.

A complaint can also be lodged with an external agency such as the Anti-Discrimination Commission Queensland or The Australian Human Rights Commission. Complaints should be made within a year of the incident unless there is good reason for any delay.

A complaint to an external agency will not prevent this Complaint Procedure from continuing where the director / senior manager decides that this is appropriate.

The Diocese is committed to providing an environment which is safe for all staff. You will not be disadvantaged in your employment conditions or opportunities as a result of lodging a complaint.

Enquiries

Diocesan Chief Executive Officer or Diocesan Human Resources Office.

See also (Related Policies and Guidelines)

Workplace Bullying