**Sample policy: Discrimination & sexual harassment**

(Company name) is committed to creating a work environment which is free from discrimination and sexual harassment and where all members of staff are treated with dignity, courtesy and respect.

We have developed a policy on discrimination and sexual harassment, provide regular staff training on discrimination and sexual harassment, and have procedures for complaints.

**Application of this policy**

This policy applies to all staff:

* full-time, part-time, casual, permanent or temporary
* contract or commission workers
* volunteers, vocational and work experience placements

It applies to staff in all their work‐related dealings with each other, and with customers, contacts or clients.

It applies to staff while in the workplace or off site, at work‐related functions (including social functions and celebrations), while on trips and attending conferences.

**Discrimination and equal opportunity**

(Company Name) is an equal opportunity employer. At all stages of the employment relationship (recruitment and selection, terms and conditions of work, training and professional development opportunities, promotion and transfer, retirement, retrenchment and termination) staff will be treated on their merits and valued according to how well they perform their duties.

(Company Name) believes that all staff should be able to work in an environment free from discrimination, victimisation, sexual harassment, vilification and the seeking of unnecessary information on which discrimination might be based. We consider these behaviours unacceptable and they will not be tolerated.

**Responsibility of staff**

All staff contribute to maintaining a discrimination free and inclusive workplace and a healthy workplace culture.

Managers 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 managers and not to participate in discriminatory or harassing behaviour.

**Consequences of breach of the policy**

Staff who make a complaint of discrimination or sexual harassment will not suffer any victimisation by (Company name) for making the complaint. This also applies to staff who agree to be a witness in a complaint or have a complaint made against them.

Disciplinary action will be taken by (Company name) 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 person’s personnel file, a formal apology, counselling, demotion, transfer, suspension, or dismissal for very serious matters.

**Anti‐discrimination legislation**

Under the Queensland Anti‐Discrimination Act 1991 (the Act) discrimination, victimisation, sexual harassment, vilification and seeking unnecessary information on which discrimination might be based are illegal.

Discrimination on 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);
* religious belief or activity (including not holding a religious belief)
* sex and gender identity
* relationship status (including being married, single, divorced, separated, de facto or in a same sex relationship)
* sexuality
* pregnancy and 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

These personal characteristics are called ‘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, or because they refused to do something that would contravene the Act
* sexual harassment is prohibited wherever it happens, even in ‘private’
* vilification on the basis of a person’s race, religion, gender identity or sexuality

Federal anti‐discrimination legislation prohibits discrimination on the basis of criminal record, medical record or social origin.

**What is discrimination?**

Direct discrimination happens when a person is treated worse than others in similar circumstances, because of one or more of their attributes.

Direct discrimination may involve:

* 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.’
* using selection processes based on irrelevant attributes such as age, race or impairment rather than on skills really 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 an attribute 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 not be possible for 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 would disadvantage a person with an impairment who may be able to perform the essential parts of the job in a different way.

**What is sexual harassment?**

Sexual harassment is any form of unwelcome sexual attention towards another person, done with the intention, or possibility, of offending, humiliating or intimidating the other person. It may be experienced by women or men. Sexual harassment has nothing to do with mutual attraction, and such friendships are a private matter.

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. (Company name) will not tolerate sexual harassment in the workplace or in any work‐related context such as conferences, work functions and business trips.

Sexual harassment does not have to be repeated or continuous to be against the law. A single incident might offend, humiliate or intimidate the other person, even if 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 speak up. All employees are responsible for their own behaviour. If you think the behaviour may offend, then don’t do it.

**Vicarious liability**

Under the Act the person who discriminates against, victimises, sexually harasses, vilifies or asks for unnecessary information can be liable for the unlawful behaviour as well as their employer, (Company name), unless (Company name) can show we have taken reasonable steps to prevent it.

(Company name) provides all staff with brochures and information about discrimination and sexual harassment at induction, and conducts regular awareness training.

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

What to do if you are discriminated against, sexually harassed, vilified or asked for unnecessary information

Don’t ignore discrimination, sexual harassment, vilification or requests for unnecessary information, thinking it will go away, often it just gets worse. Choose the action you feel most comfortable with. You can follow more than one action at the same time.

**Support and counselling**

(Company name) provides confidential assistance to staff in the form of wellbeing support and professional counselling and encourages staff to seek help. Phone (……….)

For information on leave entitlements or WorkCover claims phone (usually HR ……)

**Get more information before deciding what to do**

1. Contact one of the following people in (Company name) who have been nominated to give information:

Name:

Position:

Location:

Contact details (telephone, email):

Name:

Position:

Location:

Contact details (telephone, email):

1. Contact your trade union for advice.
2. Call the Anti‐Discrimination Commission Queensland on 1300 130 670 or TTY 1300 130 680 for information about your rights and responsibilities.

**Self help**

If you feel confident and want to deal with the situation yourself, you can use self-help techniques. However, it is not necessary that you try to resolve the complaint this way.

This option involves approaching the person responsible for the discriminatory or sexually harassing behaviour yourself. You should tell the person what you are unhappy about, why you are unhappy about it, and what you would like to happen. Taking a person with you for support may be helpful.

**Make an internal complaint**

(Company name) has an obligation to treat all complaints of discrimination, victimisation, sexual harassment, vilification or seeking unnecessary information seriously. All complaints will be handled confidentially and impartially, investigated promptly and recommendations implemented.

1. The starting point to resolving a compliant is to talk with someone. This can be your manager (or another member of the management team if more appropriate). Tell them what your concerns are; explain what has happened and how it has affected you.
2. The manager may take immediate action (e.g. removing offensive graﬃti or posters).
3. The manager may provide a range of options. One approach is to centre on the resolution of the issue, without deciding fault. The manager may speak to the person you are making a complaint about, to see if the situation can be resolved simply.
4. Some matters are not resolved so easily, especially if the person being complained about denies or disputes the allegations, or the issues are complex. Your manager (or another management team member if appropriate) may handle your complaint, or refer it to specialist human resource staff or engage an independent external agency. This option will involve an investigation, collecting evidence and witness statements, and making findings and recommendations which will be implemented by (Company name.) The following human resource staff are available to discuss these options:

Name:

Position:

Location:

Contact details:

**Make an external complaint:**

You can complain to the Queensland Human Rights Commission (QHRC). They have offices in Brisbane, Rockhampton, Townsville, and Cairns can be contacted on 1300 130 670 (statewide). An enquiry officer can send you a complaint form and explain the process to resolve your complaint. The QHRC complaint resolution service is free. The Commission’s website www.qhrc.qld.gov.au has more information including the complaint form.

NOTE: A complaint to the QHRC must be made within one year of the incident, unless good reasons for any delay can be shown.

**Policy review**

All policies will be reviewed every two to three years, and distributed to staff. Should the need arise, the policies will be translated into appropriate languages.

(Company name) 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.

Signed...................................

Position: (Chief Executive of Company)