# Purpose

Wannon Water is committed to creating and maintaining a safe, respectful and inclusive workplace free from bullying, unlawful harassment and discrimination.

This procedure outlines the:

* Behaviour which may constitute bullying, discrimination or harassment
* Responsibilities and processes for preventing, responding to, and managing bullying, harassment and discrimination.

# Scope

This procedure applies to all Wannon Water employees, contractors, consultants and the Board of Directors.

# Policy

Wannon Water employees are required to conduct themselves in a manner that is consistent with our values, the Code of Conduct for Victorian Public Sector Employees and Code of Conduct Annedum.

In the context of bullying, discrimination and sexual harassment, the following Wannon Water values must be demonstrated:

* **Integrity** - using powers responsibly and reporting improper conduct.
* **Respect** - promoting an environment that encourages respect for colleagues and others by creating an environment that is free from discrimination, harassment and bullying.
* **People Focused** – Striving for Zero Harm for myself and others, by creating an environment that is free from discrimination, harassment and bullying.

## Positve Duty

Wannon Water has a positive duty to prevent unlawful conduct from occuring in the workplace or in connection to work, as required under the Australian and Victorian Positive Duty Standards.

All employees must contribute to Wannon Water’s Zero Harm commitment to building and maintaining a safe and positive workplace culture, free of sexual harassment, sex-based harassment, discrimination and bullying, and promote gender equality.

## Bullying

Bullying is defined as repeated and unreasonable behaviour directed towards a worker or group of workers that creates a risk to health and safety. It is irrelevant whether the person bullying intended to do so.

Examples of behaviour which may constitute bullying can include:

* Abusive, insulting or offensive language or comments
* Aggressive and intimidating conduct
* Verbal and non-verbal threats
* Attempts to belittle or humiliate
* Persistent criticism or unjustified monitoring of work
* Setting impossible deadlines or timelines
* Witholding necessary information that is vital for effective work performance
* Deliberately freezing out, ignoring or excluding someone from work-related activities
* Setting tasks that are unreasonably below or beyond a person’s skill level
* Changing work arrangements such as rosters and leave to deliberately inconvenience a particular worker or workers.

Behaviour that involves violence such as physical assault or the threat of physical assault may be reported to the police.

Employees and others may experience bullying through verbal communications, including over the phone or video, or through written words, pictures or other imagery, in person or through emails, text messages and social media. Bullying using a computer or other electronic device is sometimes called cyber-bullying. This form of bullying is not acceptable.

## Discrimination

Discrimination refers to any practice which makes a distinction between individuals or groups of individuals in a way that treats some less favourably than others on the basis of any protected personal characteristics, and is illegal under state and federal law.

Protected personal characteristics under Federal discrimination law include:

* Age
* Criminal or medical record
* Family responsibility or status
* Marital status
* Nationality or social origin
* Physical or mental disability or impairment
* Race
* Religious or political views
* Sexual orientation
* Gender identity
* Intersex status
* Trade union activity
* Pregnancy or potential pregnancy or breastfeeding status.

It is also unlawful to discriminate against a person for the reason that they are associated with a person with any of the attributes or characteristics referred to above.

Racial Discrimination refers to any practice which makes a distinction between individuals or groups of individuals in a way that treats some less favourably than others on the basis of protected personal characteristics.

The Racial Discrimination Act 1975 makes it unlawful to diciminate against a person in Australia based on:

* Race
* Colour
* Descent
* National origin
* Ethnic baground
* Immigrant Status
* Religion

It is also unlawful to discriminate against a person for the reason that they are associated with a person with any of the attributes or characteristics referred to above.

## Harassment

Harassment is the result of unwelcome conduct of a seriously demeaning nature that in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would feel offended, humiliated or intimidated.

Harassment can include behaviour such as:

* Telling insulting jokes about particular racial groups.
* Written or oral derogatory comments about someone’s race or religion.
* Persistent verbal abuse or threats, or persistently disrupting an individual’s work, workspace, equipment or interfering with their personal property.
* Verbal abuse (including swearing at some-one) or threats.
* Gestures that are insulting or belittling.

## Sexual and Gender-Based Harassment

Sexual Harassment is any unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature that in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would feel offended, humiliated or intimidated.

Gender-based harassment refers to any unwelcome conduct which is demeaning in nature and on the basis of someone’s gender, sex or sexuality.

Sexual and gender-based harassment may be a one-off incident or a repeated behaviour. The intention of the alleged harasser is not relevant. An advance, request or other conduct may be sexual in nature even if the person engaging in the conduct has no sexual interest in the person towards whom it is directed or is not aware that they are acting in a sexual way.

Sexual harassment is unlawful and prohibited by both the Equal Opportunity Act 2010 (Vic) and the Sex Discrimination Act 1984. It is unlawful for a person to subject another person to a workplace environment that is hostile on the ground of sex, under the Sex Discrimination Act 1984.

Providing they are unwelcome or not reciprocated, the following behaviours could be examples of sexual or gender-based harassment:

* Actual or attempted rape or sexual assault.
* Any unwelcome familiarity including physical contact such as patting, pinching, or touching, or unnecessary familiarity, such as deliberatly brushing up against a person.
* Physical assault, abuse or threats targeted at an individual because of their sex, gender or sexuality.
* Sexual gestures or indecent exposure.
* Derogatory, offensive or demeaning comments about a person because of their sex, sexuality or gender.
* Sexualised comments about a person’s appearance or clothing, or derogatory comments because appearance does not confirm to narrow gender norms.
* Persistent demands for sexual favours or outings or inappropriate repeated invitations to go out on dates.
* Suggestive looks implying a sexual interest or inappropriate staring or leering that makes a person feel uncomfortable.
* Deliberatly misgendering someone or using incorrect pronouns to demean or belittle them
* Intrusive questions or comments about a person’s private life, physical appearance or bodily functions.
* Excluding a person from training, promotions or opportunities based on their sex, gender or sexuality.
* Threatening to share or sharing an intimate image or video without consent.
* Comments, insults or ‘jokes’ of a sexual or explicit nature, or which are sexist or gendered
* Circulating and/or displaying written or pictorial material that is offensive, belittling or sexually explicit.
* Gendered double-standards or different repercussions for the same actions.

Employees and others may experience and gender-based harassment through verbal communications, including over the phone or video, or through written words, pictures or other imagery, in person or through emails, text messages and social media.

Acts such as sexual assault, physical assault, indecent exposure, stalking, sharing intimate images or videos without consent and obscene or threatening behaviour may be offences under criminal law.

# Procedure

Employees are required to report any incidents of bullying, harassment or practices of discrimination experienced or observed to the Wannon Water appointed Contact Officers as listed in this document. Alternatively, employees may report these behaviours to their Manager, Supervisor or the People and Wellbeing department.

Employees who have experienced incidents of harassment, discrimination, bullying or exposure to a hostile workplace environment may also wish to lodge a formal complaint with the Victorian Equal Opportunity and Human Rights Commission or the Fair Work Commission.

Alternatively, where a serious incident or crime has occurred, including sexual harassment, employees may report the crime to the relevant Police authorities or apply for a ‘stop sexual harassment order’ through the Fair Work Commission. Further information on this order can be found on the [Fair Work website](https://www.fwc.gov.au/apply-resolve-sexual-harassment-dispute-form-f75).

## Contact Officers

Contact Officers are appointed Wannon Water employees who are voluntarily available for employees to contact for bullying, discriminition and harassment complaints.

Contact Officers are provided with regular training to support their role and keep them up to date with relevant legislation, guidelines and other related information. Contact Officers are aware of the need for sensitivity and the high level of confidentiality critical to this role.

The role of the Contact Officers includes:

* **First point of contact for all complaints**
* **Assist and support**
* Assisting the Complainant to establish a process to stop offending behaviour
* Assistance with access to relevant information about rights and options.
* Referring the person to Wannon Water’s Employee Assistance Provider.
* Assisting the Complainant to formalise a complaint for investigation.
* **Act as an information resource.**
  + Rights and responsibilities under the organisation’s policy.
  + Rights under State and Federal equal opportunity law.
  + What constitutes discrimination, harassment and bullying.
  + The prohibition on victimisation.
  + Options available to deal with the individuals concerns and the likely results of these.
* **Present resolution options**
  + Providing information about the options available to deal with the complainant’s concerns and the likely results of these.
  + Discussing possible strategies the Complainant can use to deal directly with the Respondent.
* **Display commitment to Equal Opportunity**
  + The Contact Officer has a proactive and preventative role in the elimination of discrimination, sexual harassment and bullying. Their behaviour should be a positive reinforcement of appropriate behaviour and actions in the workplace.

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| **Wannon Water Contact Officers** | | |
| Linton Hall | Asset Creation | 0437 103 628 |
| Maddison Hunger | Operations Support & Projects | 0455 841 689 |

Any reports of bullying, harassment or discrimination will be treated seriously and sympathetically, and where required will be investigated, confidentially and objectively. Complainants and witnesses shall not be victimised in any way.

Any complaint requiring investigation should be referred, in writing, via the Contact Officer or a Manager/Supervisor to the Manager People & Wellbeing or delegated to an appropriately trained individual.

Where there is a potential or perceived conflict of interest Wannon Water may engage an appropriately qualified external party to conduct any required investigation.

## Bystanders intervention

Bystanders, including Wannon Water employees, who witness or are aware of sexual harassment can play an important role in preventing sexual harassment within the workplace.

Some examples of a bystander can be:

* An employee who sees a colleague being harassed by another employee, customer or person.
* An employee listening to colleague, make inapprorpirate sexual comments about their collleagues at a social gathering.
* An employee who is told by another employee that she is being sexually harassed by another employee.
* A manager who is informed about the sexual harassment of another employee.

Bystander action is the action people can take in response to either seeing the sexual harassment or hearing about it after it has occurred.

Employees should not take any actions that puts themselves, or someone else, in danger.  Some safe and practical strategies employees can take if they witness sexist or sexually harassing behaviours are:

* **Notice the event** - Having the awareness to recognise sexual harassment.
* **Intrepret -** Understanding it as a problem.
* **Be responsible -** Feel responsible for helping in an appropriate way. Some options are:
  + Report the behaviour
  + Call out the behaviour and education
  + Check in with the person harassed
  + Diffuse the situation.
* **Apply knowledge and skills -** Have the necessary knowledge and skills to act appropriately.
* **Act -** Remembering that sometimes the ‘acting’ is as simples as listening to the person who has been sexually harassed.

In some situations, a witness may wish to remain anonymous and where appropriate, anonymity will be provided. However, it may not be possible in all circumstances to keep the identify of a person, or people providing information anonymous.

## Rights of the Complainant

The Complainant is the person who claims to be the subject of bullying, harassment or discrimination, and who may complain about an experience or incident. A Complainant has the right to:

* Seek information and assistance from a Contact Officer, Supervisor or Manager regarding their rights and options to resolve an issue.
* Have their complaint dealt with promptly and seriously, with respect to confidentiality and privacy.
* Have support and representation throughout the process.
* Express views and opinions without intimidation or victimisation for having made the complaint.
* Lodge a formal complaint in line with Wannon Water’s procedures.
* Discuss with Wannon Water’s Workplace Employee Assistance Program.
* Lodge a formal complaint with an external body (e.g Victorian Equal Opportunity and Human Rights Commission, Australian Human Rights Commission, WorkSafe or the Fair Work Commission).
* Apply to the Fair Work Commission for a ‘stop sexual harassment order’.

## Rights of the Respondent

The Respondent is the person who is alleged to have acted in a manner that caused bullying, harassment or discrimination, and is the person complained about. A respondent has the right to:

* Have the complaint dealt with in a confidential and private manner, without public accusation.
* Have support and representation throughout the process.
* Be informed of what they are accused of and of who is making the complaint.
* Respond to all allegations.
* Natural justice in the procedures used to pursue and resolve a complaint.
* Not be defamed, prejudge or discriminated against, or be the subject of unfounded or vexatious complaints.

When a report of bullying, harassment or discrimination is received, the complainant will be provided information to determine if they wish to proceed with an investigation into the complaint.

Any complaint requiring investigation will be dealt with effectively, confidentially, and promptly and will be taken seriously, and investigated both impartially and thoroughly.

The investigation will incorporate these guidelines:

* The investigation will establish the facts; and not presume events or knowledge without confirmation.
* The investigation needs to ensure that the employee was aware that their actions were unwelcome, constituted bullying, harassment or discrimination, were in breach of this Procedure and could lead to discipline.
* Procedural fairness needs to be afforded to the complainant and the person being complained of. This includes informing the employee of any allegation.
* The investigation and disciplinary process must be transparent and fair while being sensitive and confidential.
* All parties will be kept informed of the process and provided with reasoning for actions that have been taken and in some circumstances not taken.

In reaching a recommendation or conclusion about any allegation, the Workplace Investigations Officer may draw on the assistance of external providers.

## Consequence

Where a complaint is substantiated and a breach of the Code of Conduct for the Victorian Public Sector Employees and the Wannon Water Code of Conduct Addendum occurs, disciplinary procedures as per Wannon Water’s policy Consequences of Employee Misconduct may be applied up to and including termination of employment.

## Reporting

The outcome of any investigation will be reported to the attention of the Managing Director and the relevant General Manager that:

* Describes the allegations/what was reported.
* Describes the investigation process.
* Outlines all relevant evidence (including who was interviewed).
* Concludes whether the allegations can or cannot be substantiated.
* Outlines any recommended actions to be taken.

## After the Investigation

Upon the completion of a workplace harassment or discrimination investigation, communication to relevant stakeholders will occur.

The complainant will be advised of the outcome of the complaint, reasons for the findings explained and an outline of any steps that have been taken (if necessary) to prevent the behaviour from recurring.

There will be follow-up to ensure the outcome is working satisfactorily.

## Reportable Conduct

Where a report of sexual harassment is made that may involve behaviour constituting a criminal offence (e.g. sexual assault, indecent exposure, stalking, obscene communications), the Manager People and Wellbeing should immediately be contacted for advice.

In general, Wannon Water will not report sexual offences to the police without the consent of the person making the report, in line with a person-centred and trauma-informed approach. However, when there is an imminent risk to safety, there will be circumstances when police may need to be called without consent.

## Confidentiality, privacy and transparency

Wannon Water will treat reports of bullying, discrimination and sexual harassment confidentially, including:

* the identity of the person impacted, the complainant and respondant, and any other person involved in the investigation process.
* information provided or collected during the investigation of an allegation.

It is expected that all workers involved in an investigation will keep details of the allegation confidential until the investigation has concluded. Failure to do so may result in further consequences or disciplinary action, as outlined in the Consequence of Employee Misconduct Procedure.

Ensuring confidentiality should not prevent the people involved from seeking support, such as through the Employee Assistance Program or bringing a support person to meetings. People involved in an investigation are actively encouraged to seek support from providers, such as the Employee Assistance Program.

Some information reported may need to be disclosed to involved parties in order to properly investigate the matter.

## Protection against victimisation

Wannon Water does not tolerate victimisation.

Victimisation occurs when a person is subjected to or threatened to be subjected to a form of detriment, because it is known or suspected that they have lodged a grievance. Victimisation also includes theratening someone who may be involved in a grievance handling process, such as a witness or bystanders.

# Roles and responsibilities

| **Position** | **Roles and responsibilities** |
| --- | --- |
| Line Manager | * Take reasonable action to prevent inappropriate behaviour. This includes monitoring and supporting appropriate behaviours to ensure compliance with the requirements of this procedure. * Take prompt appropriate action in the circumstance that they become aware of bullying, harassment or discrimination, including in the circumstance where a complaint has not been lodged. |
| Manager People & Wellbeing | * Ensure this procedure continues to meet legislative provisions. * Management of all complaints and incident reports and investigations or refer to an appropriately trained delegate. |
| Employees | * Comply with relevant Wannon Water policies, guidelines and process related to this procedure. * Complete any mandatory or assigned inductions or training courses regarding bullying, discrimination and harassment. |

# Defini**tions**

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| Term | Means |
| Complainant | Refers to the person/people making a complaint |
| Respondent | Refers to the person/people against whom a complaint is made. |
| Employees | Includes Wannon Water Employees, Volunteers and Contractors engaged by Wannon Water. |
| Contact Officers | Appointed Wannon Water employees who are voluntarily available for employees to contact for discrimination and harassment complaints. |
| Workplace | Includes all functions and places that are work-related. This may include, but is not limited to work lunches, conferences and events. |
| Positive duty | Refers to the legal obligation of individual employers and organisations to actively prevent harm and promote the wellbeing of others, and aims to address the systematic causes of discrimination, sexual harassment and victimisation, including the reactive response from employers. |
| Harassment | Is the result of unwelcome conduct of a seriously demeaning nature that in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would feel offended, humiliated or intimidated. |
| Bullying | Repeated, unreasonable behaviour directed at an employee or group of employees that creates a risk to health and safety. These repeated behaviours may be overt or subtle. It is irrelevant whether the person bullying intended to do so. |
| Sexual Harrassment | Is any unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature that in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would feel offended, humiliated or intimidated. |
| Discrimination | Refers to any practice which makes a distinction between individuals or groups of individuals in a way that treats some less favourably than others on the basis of any protected personal characteristics, and is illegal under state and federal law. |
| Racial discrimination | Any practice which makes a distinction between individuals or groups of individuals in a way that treats some less favourably than others on the basis of protected personal characteristics. |
| Gender-based harassment | Refers to any unwelcomed conduct which is demeaning in nature and on the basis of someone’s gender, sex or sexuality. |
| Victimisation | Occurs when a person is subjected to or threatened to be subjected to a form of detriment, because it is known or suspected that they have lodged a grievance. Victimisation also includes theratening someone who may be involved in a grievance handling process, such as a witness. |
| Cyber Bullying | Cyberbullying includes any form of bullying behaviour that occurs online or via a mobile device. It can be verbal or written, and can include threats of violence as well as images, videos and/or audio. |
| Hostile Workplace Environment | A workplace environment may be considered hostile if a reasonable person, having regard to all the circumstances, would have anticipated the possibility of the conduct resulting in a workplace enviornment being offensive, intimidating or humiliating. This exposure may may occur when a person is subjected to, or is in the workplace at the same time or after the conduct occurs. |

# Governance

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| **Parent policy/standard** |  |
| **Associated procedures/standards** | * [Consequence Of Employee Misconduct](https://wannonwater.sharepoint.com/sites/cdms/Published%20Documents/Forms/AllItems.aspx?id=%2Fsites%2Fcdms%2FPublished%20Documents%2FConsequence%20Of%20Employee%20Misconduct%2EDOCX&parent=%2Fsites%2Fcdms%2FPublished%20Documents) * [Code of Conduct Addendum](https://wannonwater.sharepoint.com/sites/cdms/Published%20Documents/Forms/AllItems.aspx?id=%2Fsites%2Fcdms%2FPublished%20Documents%2FCode%20of%20Conduct%20Addendum%2EDOCX&parent=%2Fsites%2Fcdms%2FPublished%20Documents) * [Code of Conduct for Victorian Public Sector Employees](https://vpsc.vic.gov.au/wp-content/uploads/2015/03/VPSC_Code_VPSE_WEB.pdf) * [Zero Harm Policy](https://wannonwater.sharepoint.com/sites/cdms/Published%20Documents/Forms/AllItems.aspx?id=%2Fsites%2Fcdms%2FPublished%20Documents%2FZero%20Harm%20Policy%2EDOCX&parent=%2Fsites%2Fcdms%2FPublished%20Documents) |
| **Relevant legislation** | * [Equal Opportunity Act 2010](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fcontent.legislation.vic.gov.au%2Fsites%2Fdefault%2Ffiles%2F2022-12%2F10-16a030.docx&wdOrigin=BROWSELINK) * [Fair Work Act 2009](https://www.legislation.gov.au/Details/C2017C00323) * [Racial Discrimination Act 1975](https://www.legislation.gov.au/Details/C2022C00366) * [Sex Discrimination Act 1984](https://www.legislation.gov.au/Details/C2023C00003) * Occupational Health and Safety Act (2010) |
| **Approval** | Executive People & Resillience |
| **Procedure owner** | Manager People and Wellbeing |
| **Content enquiries** | Human Resources Advisor |

# Document version history

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| --- | --- |
| Version | Changes made to document |
| 8 | New template. Additional information regarding discrimination and legislative requirements added. |
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