



Procedure 3.09 – Anti Bullying, Sexual Harassment and Discrimination

1. Application

This Anti Bullying, Sexual Harassment and Discrimination procedure applies to all NQBP Personnel and Contractors.

2. Preventing and Resolving Bullying, Sexual Harassment and Discrimination

NQBP aims to have safe workplaces that are free from:

- bullying;
- sexual harassment; and
- discrimination;

where employees work and treat each other in an ethical, fair and respectful manner.

Unacceptable behaviour will not be tolerated.

NQBP is committed to investigating workplace concerns and complaints quickly, sensitively, fairly, confidentially, and with a minimum of disruption while following the principles of natural justice.

Natural justice requires that the person against whom the allegation is made is told what is alleged against them and is given an opportunity to put their case forward in reply, and that any decisions are made by an impartial decision-maker.

Employees and managers will demonstrate mutual respect and care in establishing a workplace free from personal favouritism, coercion and harassment.

Everyone at NQBP is responsible for being aware of and accepting their responsibility for maintaining proper standards of integrity, conduct and concern for employees and the public interest.

It is important not to ignore any form of Bullying, Sexual Harassment and/or Discrimination that has occurred in the workplace.

There are several steps that can be taken to try to resolve Bullying, Sexual Harassment and/or Discrimination matters. More than one action at the same time can be followed if necessary.

2.1. Bullying

Bullying is when a person or a group of people repeatedly behave unreasonably towards an employee or a group of employees at work and the behaviour creates a risk to health and safety. Examples include; intimidation, verbal abuse or threats, including yelling, screaming or offensive language; excluding or isolating people from workplace activities; and spreading malicious rumours.

The following behaviours do not constitute bullying:

- Reasonable management action, including performance management and disciplinary procedures (refer clause 3);
- A direction to carry out reasonable duties and instructions; and
- A direction to comply with NQBP policies, procedures, systems and processes.

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2.2. Sexual Harassment

Sexual Harassment is any unwanted or unwelcome sexual behaviour, which makes a person feel offended, humiliated or intimidated.

2.3. Discrimination

There are two types of discrimination: direct and indirect discrimination.

Direct discrimination occurs when a person or group of people are treated less favourably because of a particular attribute where persons without that attribute are or would be treated more favourably in the same or similar circumstances.

Indirect Discrimination occurs when a practice, condition or policy which, while appearing to treat everyone equally, actually operates indirectly to disadvantage one group of persons over another.

Discrimination on the following grounds is against the law:

- sex
- relationship status
- pregnancy
- parental status
- breastfeeding
- age
- race
- impairment
- religious belief or religious activity
- political belief or activity
- trade union activity
- lawful sexual activity
- gender identity
- sexuality
- family responsibilities
- association with, or relation to, a person identified on the basis of any of the above attributes

3. Reasonable Management Action

Management from time to time may discuss performance and / or behavioural matters (performance inadequacies, inappropriate behaviours) with employees. As a result, management actions to improve or resolve these matters, such as providing instructions for more effective performance or to modify behaviours, may occur. This is 'reasonable management action' and does not constitute workplace bullying.

4. Resolving Bullying, Sexual Harassment and Discrimination matters

Allegations of Bullying, Sexual Harassment and Discrimination will be resolved by adopting Procedure 3.08 - Resolving Workplace Grievances.

At any stage, an employee can attempt to resolve the matter by referring it to an external party including the Anti-discrimination Commission Queensland, Fair Work Australia or Australian Human Rights Commission.

5. Confidentiality and Victimisation

The parties are required, at all stages of the resolution process, to maintain confidentiality in relation to the allegation or complaint. The parties must not disclose, by any form of communication, either the fact or the substance of the matter to anyone other than those involved in the investigation process unless the disclosures are made to the CEO, relevant Executives, internal legal team, the HR/IR Manager or made in legal proceedings with an industrial or legal representative.

A person must not victimise or otherwise subject another person to detrimental action as a consequence of that person raising, providing information about, or otherwise being involved in a complaint.

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Any breach of either the confidentiality or victimisation requirements will be treated seriously by NQBP and may result in disciplinary action.

Generalised results of investigations (without releasing details or naming those involved) may be communicated to all staff to raise awareness.

6. Vexatious claims

A vexatious or frivolous complaint is one which has the ability to harass or annoy, to cause delay or detriment, or is for any other improper purpose. Any complaint that is found to be vexatious, frivolous or made for an improper purpose may constitute grounds for disciplinary action.

7. Procedural Fairness

Procedural fairness will be afforded to all parties when a concern is raised and investigated.

Procedural fairness means that:

- All relevant discussions are to be held in a private and confidential location where possible;
- There will be an investigation into the matter before deciding on outcome/s;
- The respondent will have adequate opportunity to respond to the allegations and provide any evidence;
- Responses should be taken into account that include mitigating factors, before outcomes are decided;
- The complainant and respondent should be kept informed throughout the complaint process;
- Appropriate coaching and/or warnings should be given to suit the circumstances; and
- The complainant or respondent may choose to bring a support person to formal meetings.

8. Breaches

If an allegation of breaching this procedure is substantiated, disciplinary action may occur in accordance with Procedure 3.07 Performance Coaching and Discipline Procedure, including termination of employment.

If the breach relates to a contractor, legal proceedings may occur.

9. Responsibilities

All employees are responsible for complying with this procedure. Managers and supervisors are responsible for; managing team compliance with this procedure, personally, promoting the correct behaviours, understanding responsibilities under relevant legislation, supporting complaint procedures and treating complaints seriously.

10. Governance Policy, Procedure and Legislative Framework

NQBP is a Government Owned Corporation and a port authority and is required to comply with its own policies, prescribed applicable legislation and State Government policies and procedures. This procedure should be read in conjunction with:

- a. Policy 3 - Human Resource Management
- b. Procedure 3.07 – Performance Coaching and Discipline
- c. Policy 2 – Compliance
- d. Procedure 2.05 - Whistle-blower Protection;
- e. Procedure 2.06 – Whistle-blower and Public Interest Disclosure Management;
- f. Standard 2.02 - Integrity Framework– Corrupt Conduct and Public Interest Disclosures;
- g. Risk Management Framework
- h. Standard 2.01 - Code of Conduct

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Procedure 3.09 - Bullying, Harassment and Discrimination

- i. Procedure 3.08 – Resolving Workplace Grievances
- j. *Anti-Discrimination Act 1991*(Qld)
- k. *Racial Discrimination Act 1975* (Cth)
- l. *Sex Discrimination Act 1984* (Cth)
- m. *Disability Discrimination Act 1992* (Cth)
- n. *Age Discrimination Act 1992* (Cth)
- o. *Fair Work Act 2009* (Cth)
- p. *Public Interest Disclosure Act 2010* (Qld)
- q. *Crime and Corruption Act 2014* (Qld)
- r. *Corporations Act 2001* (Cth)

11. Procedure Review Date

The procedure should be reviewed by 31 October 2020.

12. Definitions

Contractors: means contractors or consultants engaged by NQBP under a personal services consultancy agreement or other similar arrangements.

NQBP: means North Queensland Bulk Ports Corporation Limited ACN 136 880 128.

NQBP Employees: means employees and Contractors of NQBP but does not include NQBP directors.

NQBP Personnel: means NQBP officers (for example NQBP directors) and NQBP Employees.

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