

Small Business Handbook

*An Anti-Discrimination Commission Queensland
Guide for small business*



ANTI DISCRIMINATION
COMMISSION QUEENSLAND

Introduction

In Queensland, the *Anti-Discrimination Act 1991* (the Act) protects people from discrimination, sexual harassment and other objectionable conduct in their daily lives, including when at work and as a customer.

The Anti-Discrimination Commission Queensland (ADCQ) has a role to resolve complaints made under the Act as well as providing training and information to business, government and the community.

The material contained in this resource provides small business with a guide to preventing and managing discrimination and sexual harassment, and for promoting equality and diversity in areas such as recruitment, training and management. Policies included may be tailored to reflect your own workplace, organisational structure and industry.

Where to go for help

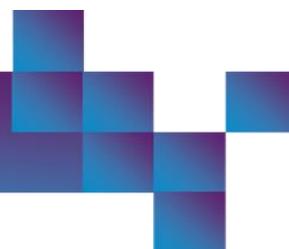
The Anti-Discrimination Commission Queensland provides free tools and information about Queensland anti-discrimination law.

Visit www.adcq.qld.gov.au or phone ADCQ's information line on 1300 130 670.

Disclaimer

This booklet is provided to assist you, but is a guide only.

The information contained is current at the time of publication and refers to Queensland state legislation only. If you are unsure how the information applies to your situation you can call our information line on 1300 130 670 or seek independent legal advice.



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What's in it for ME?

A complaint of discrimination or sexual harassment against a business can have major negative consequences—financial, legal and reputation.

On the other hand, implementing non-discriminatory practices makes good business sense.

If your business has non-discriminatory and flexible work practices, you will attract and keep skilled and committed workers and retain their skills in the business.

When morale, motivation and job satisfaction are high, your business will be more productive and profitable.

Having good workers means good service delivery and happy customers who keep coming back.

Diversity in the workplace is about a mix of workers of different ages, sexes, races etc. which is more representative of the community.

Diversity and inclusion make good business sense

Benefits of a non-discriminatory workplace

- reduced staff turnover
- minimised legal liability and costs
- higher staff morale
- less conflict and disruption
- better reputation and public image
- more customers and diverse markets
- better client service delivery
- more positive workplace relations
- increased competitiveness & creativity

Understanding the Law

Discrimination

The law which covers discrimination and sexual harassment in Queensland is the *Anti-Discrimination Act 1991*. It is unlawful to discriminate against people because of certain personal characteristics (attributes) or because they belong to a particular group identified by an attribute.

In Queensland it is unlawful to discriminate against someone because of:

- race
- impairment (disability)
- age
- sex
- family responsibilities
- pregnancy
- sexuality
- religious belief or religious activity
- relationship status
- parental status
- breastfeeding
- gender identity
- trade union activity
- political belief or activity
- being a lawful sex worker
- association with anyone who has any of the above attributes.

For discrimination to be unlawful it must happen in an area of public life listed in the Act. Those areas of particular relevance for small businesses are:

- work -including recruitment, conditions of work and termination
- supplying goods and services - including access to facilities or services
- providing accommodation
- buying and selling property.

Discrimination examples

After Dominic had been working well as a chef for six months his boss discovered that he was on medication for depression. Dominic's boss sacked him after learning of his impairment. Dominic could make a complaint of direct discrimination to the Anti-Discrimination Commission. (impairment)

A property manager refused to rent a unit to a single parent saying they 'really wanted a couple', despite the person demonstrating a good income and capacity to pay the rent. (relationship status)

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 examples:

- deciding a person should not get a job because of their age, sex, race, sexuality etc.
- making offensive jokes about another worker's racial or ethnic background, sex, sexuality, age or impairment
- searching only Aboriginal customers' bags when they exit the store.

Indirect discrimination happens when a requirement disadvantages a person because they are unable (or less able) to comply with the requirement because of an attribute and the requirement is not reasonable in the circumstances. The fact that the disadvantage was not intended is not an excuse.

Indirect discrimination examples:

- a requirement to be able to walk up a large number of stairs to access a business would disadvantage a person with mobility impairment. Whether it is discrimination will depend on whether it is reasonable in the circumstances. (impairment)
- a requirement for staff to work on Saturdays imposed by a small electrical retailer could not be complied with by a worker of the Seventh Day Adventist faith. Whether it is discrimination will depend on whether it is reasonable in the circumstances. (religion)

Is it discrimination?

+ **Attribute**

Do I have one of the 16 personal characteristics?

+ **Area**

Has it happened in one of the areas of public life?

+ **Unfair treatment**

What was unfair treatment?

= **Discrimination**

Sexual harassment is:

- unwelcome conduct
- sexual in nature
- in relation to a person
- done with the intention, or possibility, of offending, humiliating or intimidating the person.

Sexual harassment might not be intentional. It depends whether a reasonable person would have anticipated that the other person might be offended, humiliated or intimidated by the conduct.

Sexual harassment:

- does not have to be repeated
- is unlawful anywhere, not just at work
- can happen to, and be done by men or women

Sexual harassment examples:

A male sales rep complained of sexual harassment by his female manager who made unwelcome sexual advances to him, brushed up against him and touched him on the genitals.

An accounts clerk received sexually explicit emails from another worker which she found offensive.

Sexual harassment can take many forms:

- physical - pinching or touching in a sexual way
- lewd gestures, leering or ogling
- verbal - sexual propositions, comments, jokes or innuendo, repeated unwanted invitations
- offensive sexual phone calls, text messages, emails or social media posts
- sexual or pornographic images.

Sexual harassment facts

Results of the Australian Human Rights Commission's *Sexual Harassment National Phone Survey (2012)*

20% of people between 18-64 have personally experienced sexual harassment.

Women are four times more likely to experience sexual harassment than men.

Harassers are most likely men, aged between 31 and 50 and are co-workers of the person harassed.

The most common types of behaviours reported are sexually suggestive comments or offensive jokes, intrusive questions and inappropriate staring

Victimisation

Employers and workers should remember that the Act also prohibits victimisation.

Victimisation happens when a person is treated badly because they:

- have complained about discrimination or sexual harassment
- are involved in a complaint or investigation (eg. as a witness)
- have refused to do something that would be discriminatory.

Victimisation examples

Jung, a garage mechanic made a complaint about racial discrimination to the Anti-Discrimination Commission. His boss told him that if he did not withdraw his complaint he would be sacked.

Michael, a nightclub security officer was told by his supervisor to refuse entry to any African patrons. He was dismissed when he refused to follow this direction.

Vilification

Vilification is a public act or statement that is capable of inciting others to hate a person or their group because of their race, religion, gender identity or sexuality. Vilification where a person or their property is threatened with physical harm is also a criminal offence.

Vilification can show up in a number of ways including through leaflets, speech, graffiti, websites, public abuse or media remarks.

Bullying

The word bullying is not used in anti-discrimination legislation. However, a complaint of discrimination can be made if bullying behaviour happens to a person because of an attribute. Sometimes bullying can be sexual harassment.

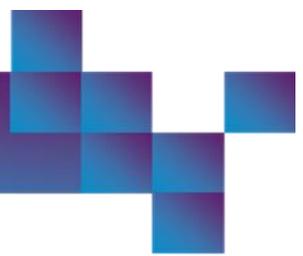
Bullying behaviour is not just one type of behaviour. It can involve abuse, violence, intimidation, ridicule, humiliation and making unreasonable demands. But it can also be less obvious and aimed at isolating a person from their colleagues, peers or friends.

Race bullying

An office worker who recently immigrated from Sri Lanka was always asked to stay behind to look after the office over lunch, and when there were work functions. Her co-worker said things like 'you wouldn't like it anyway ... you wouldn't fit in.'

Sexual harassment bullying

A woman refused the repeated advances of her manager, who then became vindictive and tried to get her dismissed, telling the business owner that her work was poor.



Your Rights and Responsibilities

Employers

Employers have the right to:

- appoint, manage and dismiss workers and to expect reasonable performance from them
- determine the work to be done, set performance expectations, review performance and provide feedback to workers
- require workers to comply with a code or standard of conduct, dress code and other policies
- expect a standard of behaviour from customers and clients and take action in the case of unacceptable behaviour.

Employers have a responsibility to:

- operate their business in a safe and non-discriminatory way for workers and customers
- take all complaints seriously
- respond quickly, effectively and without bias
- take **reasonable steps to** prevent any objectionable behaviour
- ensure employees are not victimised because they made or supported a complaint

Employees have a responsibility to:

- not discriminate, sexually harass or victimise co-workers or clients
- comply with their employer's policies

Employees are also expected to positively contribute to a non-discriminatory work culture

Employees

Employees have a right to:

- have their work performance judged on their skills, knowledge and ability
- have a workplace free from discrimination, sexual harassment and victimisation
- make a complaint.

Under Queensland anti-discrimination law, the term 'worker' includes full-time, part-time, casual, contract, commission, work experience and volunteer workers. Apprentices and workers undertaking occupational training are also covered.

Tips for Hiring

Job descriptions

Decide what is genuinely required to do a particular job, including qualifications, skills, abilities, knowledge and experience. Develop a job description outlining the responsibilities of the position and list the tasks to be done.

Make your selection based on these criteria.

Job advertisements

Give a clear job description in the advertisement. References to gender, marital status, age, race, family, religion etc should be avoided.

Application forms and interviews

Generally, it is against the law to ask a worker questions, whether verbally or in writing, about any of their attributes (age, race etc) unless there is a good work-related reason to do so.

For example, you may need to know their age if you intend to pay youth wages.

At interview, ask comparable questions of all applicants and stick to questions that have a direct bearing on the applicant's ability to do the job.

The aim of recruitment is to employ the best person for the job. You should avoid stereotyped assumptions about which gender, age group or race would be best for the job.

In some circumstances it may be appropriate to ask questions about an applicant's physical ability to do the job, including pre-existing injuries and medical conditions. Using this information about an applicant in the recruitment process must be done in compliance with the *Anti-Discrimination Act 1991*. The fact that a person has an injury or medical condition is not sufficient to justify not hiring them.

For further guidance refer to the *Medical information and recruitment* factsheets on the ADCQ website (adcq.qld.gov.au).

Recruitment Example

When looking for a receptionist, avoid assumptions such as 'the best person for the job will be a young woman'.

The job description might read as follows:

Receptionist

1. demonstrated ability to deal with the public efficiently and pleasantly
2. ability to use computer and other office equipment
3. articulate phone manner
4. well-groomed appearance

This description doesn't limit the job to any particular type of person, and you can ask questions against these criteria at interview.

On the Job

Maternity/parental leave

It is unlawful to dismiss a worker (including a part-time or casual worker) because she is pregnant.

Tips for supporting pregnant workers:

- Advise pregnant workers of their rights and responsibilities in relation to maternity and sick leave.
- Do not reduce a worker's terms and conditions or deny other benefits because of pregnancy.
- Make reasonable adjustments to the workplace to accommodate the normal effects of pregnancy.
- Keep in touch with the worker when she is on leave about work matters that have an impact on her.
- Advise and consult a worker on maternity leave if the business is undergoing a restructure.
- Offer redundancy arrangements to a worker on maternity leave in the same way you offer it to other workers. Just because a worker is pregnant or on maternity leave does not mean she will want to be made redundant.

Flexible work arrangements

Providing workers with flexibility in their work arrangements is the best way to optimize their performance and productivity. Common reasons for requesting flexible work arrangements include: parental and family responsibilities, a medical condition or accident, and religious or cultural commitments.

Depending on the nature of your business, adjustments may be able to be made, but in some cases it may not be possible.

Dismissal and redundancy

An employer may dismiss or retrench an employee if the decision is based on reasons other than pregnancy or family responsibilities such as:

- genuine financial reasons;
- poor or inadequate work performance; or
- serious or wilful misconduct;

and the employer complies with the requirements of unfair dismissal laws.

Retirement

A person must not be required to cease work upon reaching a certain age.

Protecting your business

Vicarious Liability

As an employer, you may be held responsible for how your staff treat each other and your customers. This is known as vicarious liability, which in some cases may involve you paying out compensation, because of behaviour or actions of an employee.

Vicarious liability also applies to work related activities including functions, conferences and office parties.

You cannot avoid vicarious liability simply because you were unaware of what was going on. In practice, vicarious liability means that a complaint against an individual may also include their employer.

Employers have a legal obligation to take reasonable steps to prevent unlawful behaviour by staff.

Small businesses not exempt

Small and family businesses may find it difficult to put satisfactory policies and complaint procedures in place. However, it is often small businesses that have more potential for complaints, in particular sexual harassment complaints because of the close and sometimes complicated relationships between employers and employees.

Anti-discrimination law does not distinguish between large and small employers. Therefore it is recommended that even very small businesses have policies outlining appropriate behaviours and a procedure to deal with any complaints, and communicate them to all staff.

Small business owners can nominate themselves or another employee as discrimination and sexual harassment complaints contact person, also known as a contact officer. Training and more information is available about this from the ADCQ.

You can protect your business by showing you take reasonable steps to prevent unlawful behaviour by your staff.

Taking reasonable steps

If a complaint is made against you or your business you may need to demonstrate the steps you have taken to prevent discrimination and harassment.

Taking reasonable steps means taking active steps to reasonably prevent discrimination and harassment from happening. What is reasonable for a large corporation may not be reasonable for a small business.

Here are some suggestions for small business:

Policy

- Have a policy on discrimination and sexual harassment and communicate it to all staff.
- Ensure the policy is written in plain English and is understood by all staff.
- Tell staff how they can easily access the policy.
- Reinforce the policy whenever possible - at staff meetings, through emails, on noticeboards.
- Distribute ADCQ brochures to staff and display posters with anti-discrimination messages in the workplace.



A sample anti-discrimination and sexual harassment policy can be found at the back of this handbook.

Training

- Provide discrimination training for all staff.
- Access ADCQ online training.
- Raise awareness by providing resources in the workplace if formal training is not possible.

Complaint process

- Have a process for dealing with complaints, communicate it effectively and follow it.
- Make sure the process is timely, fair and impartial, confidential and without repercussions.
- Take all complaints seriously and deal with them in line with the complaint process.



A sample complaint process can be found at the back of this handbook.

Consider any additional steps that you can do to inform staff, prevent and manage discrimination in the workplace. To decide what steps are reasonable for you, it may help to consider your:

- resources available
- nature of the industry
- working hours and level of supervision
- workplace culture and history of complaints
- working or live-in arrangements

Exemptions

Anti-discrimination legislation allows for exceptions—called ‘exemptions’—which recognise that in some circumstances discrimination can be lawful, provided it occurs for specific reasons.

The exemptions most relevant to small business are:

Genuine occupational requirement

In some limited circumstances you may impose a genuine occupational requirement based on an attribute (such as sex, race etc) for a particular job. This means that having a particular attribute is essential to the performance of the core duties of the job.

To determine if the requirement is a genuine occupational requirement, you must consider whether the position would be essentially the same without the requirement.

Beware of making stereotyped assumptions and consider each instance on a case by case basis.

Genuine occupational requirement example:

A shop advertised for a female lingerie fitter. The job involved measuring and fitting undergarments for female customers. Because of the sensitive and private nature of the work, being a female was considered a genuine occupational requirement.

Genuine occupational requirement example:

A gym wanted to advertise for an instructor under the age of 35. However, when they considered what was genuinely necessary to do the job, they found that it was more about fitness, presentation, communication and ability to motivate clients - and not age. Age in this case was not a genuine occupational requirement.

Workplace health and safety

You may do an act that is reasonably necessary to protect the health and safety of people at a place of work. This applies to protecting a worker or other workers.

Workplace health and safety example:

A cattery refused to give a woman who worked as an animal handler any more shifts when she advised that she was pregnant. The business was putting in place a measure to protect the health and safety of that worker. The woman was not immune to a disease carried by cats which can harm a developing baby.

Welfare measures

You may do an act to benefit the members of a group of people with an attribute for whose welfare the Act was designed.

Welfare measures example:

A pensioner discount day where prices are discounted only for pensioners is an example of a welfare measure.

Youth wages

You may advertise for workers under 21 years of age and pay them according to their age under the relevant award.

Protecting public health

You may do an act that is reasonably necessary to protect public health. But be sure to investigate that the public health risk is genuine and that routine hygiene would not be sufficient to protect against it.

Public health example:

A childcare centre which excludes children from attending the centre when they have a contagious medical condition is a measure taken to protect public health.

Single sex employment

If your workers need to live in accommodation that you supply you can employ people of one sex, if it would be an unjustifiable hardship to you to supply separate men's and women's sleeping accommodation.

For more detailed information about exemptions refer to the Exemptions fact sheet on the ADCQ website:

www.adcq.qld.gov.au

Tips on exemptions

The existence of an exemption does not mean that complaints cannot be made against you or your business. Exemptions can be raised when you respond to a complaint of discrimination.

The onus is on you to prove on the balance of probabilities that the exemption applies in the particular circumstances of the complaint.

You should always seek legal advice about whether an exemption would apply to your situation before relying on one of these exemptions.

Best Practice

Use the following best practice tips to ensure you are taking all reasonable steps to protect your business from complaints of discrimination and sexual harassment:

Policies and procedures—write it down

- Create a clear anti-discrimination and sexual harassment policy.
- Review the policy regularly to ensure it complies with current legislation and addresses the needs of your workplace. You could incorporate this into your annual business planning and review process so it's not overlooked.
- Ensure all staff have access to your policy.
- Have a clearly documented complaints procedure so that your employees know how to make a complaint.

Tips on policies

A sample policy is included at the back of this handbook. Use this as a basis for your workplace policy and amend it to suit your needs.

Businesses in a particular industry may consider collaborating to write a joint policy with their industry association's help.

Information and training—talk about it

- Talk to your employees about discrimination and sexual harassment. Make sure they know what it is and that it is against the law.

- Make it clear that discrimination and sexual harassment are not tolerated in your workplace.
- Tell new employees as part of their induction and remind all employees at regular intervals.
- Let employees know that disciplinary action will be taken if there are breaches of policy.
- Provide regular, ongoing training on discrimination and sexual harassment. The ADCQ can deliver this training in your workplace.
- Advise employees to complain to the business manager/owner or to the ADCQ if discrimination or sexual harassment occurs.

Small businesses are encouraged to obtain resources and attend training offered by their employer, industry associations or the ADCQ.

Action - do it

- Keep records of employee inductions and ongoing training attendance.
- Ensure procedures are understood and followed.
- Appoint workplace contact officers to provide information and assistance to employees.
- Keep written records of all employee concerns, complaints and requests.
- Provide assistance for all parties to a complaint.

Dos & DON'Ts of managing complaints

DOs & DON'T's

DOs

- ✓ Take ALL complaints seriously.
- ✓ Advise the person making the complaint of their rights and inform them of available options such as support, counselling etc.
- ✓ Explain the complaints procedure: try to find out what action they want to take.
- ✓ Act quickly.
- ✓ Document the complaint and progress/outcome.
- ✓ Keep records secure and confidential.
- ✓ Remain impartial and do not prejudge the situation.
- ✓ Ensure the behaviour stops.
- ✓ Consider the training/development needs of staff.

There are two sides to every story so be thorough with your investigations

STAFF should have a confidential means of making a complaint or seeking support

DON'Ts

- ✗ Let the behaviour continue.
- ✗ Breach confidentiality.
- ✗ Make any assumptions about the validity of the complaint before it has been investigated.
- ✗ Assume the best option is to transfer someone.
- ✗ Leave the complainant in a dangerous or stressful situation.
- ✗ Tell the person making the complaint to ignore it.
- ✗ Delay action.

Sample policies: explanatory note

The following pages contain samples of a discrimination and sexual harassment policy and a complaint procedure.

These documents have been designed to be very comprehensive for application to a wide variety of business structures.

The policies can be implemented in full for maximum benefit or tailored to apply to existing operations within your workplace. Editable versions of the policies are available on the ADCQ website.

NOTE: Removing information from the policies may result in them being less effective.

Instructions for use:

1. Review sample policies and replace all bold text in brackets such as **(Company name)** with information that is relevant to your specific business.
2. Read and action any instructions written in *red italics text*. Delete this text when instructions have been completed.
3. Save a copy of the final policy in a location where it can easily be accessed by all staff.
4. Refer to the policy when managing workplace discrimination, sexual harassment and victimisation.
5. Review the policy every two to three years or when circumstances change in your workplace.

Make a discrimination and sexual harassment strategy to protect your business

Sample policy: Discrimination & sexual harassment

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.

Sample policy: Discrimination & sexual harassment

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

Sample policy: Discrimination & sexual harassment

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 complaint 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:

Name:

Position:

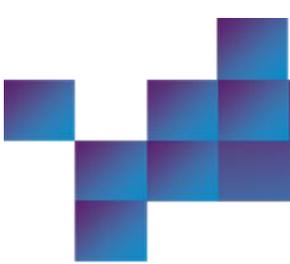
Location:

Contact details:

Make an external complaint:

1. You can complain to the Anti-Discrimination Commission Queensland (ADCQ). ADCQ has offices in Brisbane, Rockhampton, Townsville, and Cairns and contact details are phone 1300 130 670 (state-wide) and TTY 1300 130 680 (state wide). An enquiry officer can send you a complaint form and explain the process to resolve your complaint. The ADCQ complaint resolution service is free. The Commission's website www.adcq.qld.gov.au has more information including the complaint form.

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



Sample policy: Discrimination & sexual harassment

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)**

Sample policy: Complaint procedure

Sample policy: Complaint procedure

This policy aims to ensure that all employees involved in a complaint are treated fairly, by providing a straightforward process for dealing with complaints of discrimination, sexual harassment and victimisation.

Our complaints procedure is:

- **Impartial** Both sides have a chance to tell their side of the story.
- **Timely** All complaints will be dealt with as quickly as possible.
- **Confidential** Information will only be shared with parties involved.
- **Fair** You will not be victimised for making a complaint.

Step One

Approach the workplace (**Contact Officer/WHS Officer**) who can provide information about a range of options available to the employee with the complaint. *[If your workplace does not have a contact officer, insert the position within your company that is best able to provide information on complaint options.]*

Step Two

Where appropriate the complainant can try and sort out the issue informally with the person involved. The (**Contact Officer/WHS Officer**) can provide information on how to do this but does not have the role of support person. This step is NOT compulsory, but is recommended for minor issues that can be resolved informally between the parties.

Step Three

If the issue cannot be sorted out informally, a formal complaint may be lodged by the employee. Details of the complaint must be produced in writing including full details of the alleged incident/s, time, place, who was involved and any other relevant information. The (**person receiving the complaint**) will then refer these details to the appointed company representative for dealing with complaints.

Step Five

A full examination of the complaint will be conducted by a company representative, (which may be the Manager or another party), where appropriate, and may include the following actions:

- interview the alleged perpetrator in relation to the details of the complaint
- require the alleged perpetrator to provide a response to the allegations
- further investigate the matter including taking evidence or witness statements from other parties including parties nominated by the alleged perpetrator in defending the matter

Step Six

On completing their examination of the matter, the person conducting the investigation will reach a final decision about the outcome of the investigation and provide this information to the (**company owner**) for final decision.

Step Seven

The decision of the **(company owner)** will be actioned, and the complainant and alleged perpetrator advised of the outcomes.

Outcomes may include:

- counselling
- disciplinary action
- an apology
- training on anti-discrimination or other matters, or
- clearing the alleged perpetrator of any wrong

(Include any other specific outcomes that may be relevant to your workplace)

All documentation associated with complaints and investigations of discrimination or harassment will be handled strictly in accordance with the relevant privacy legislation.

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.

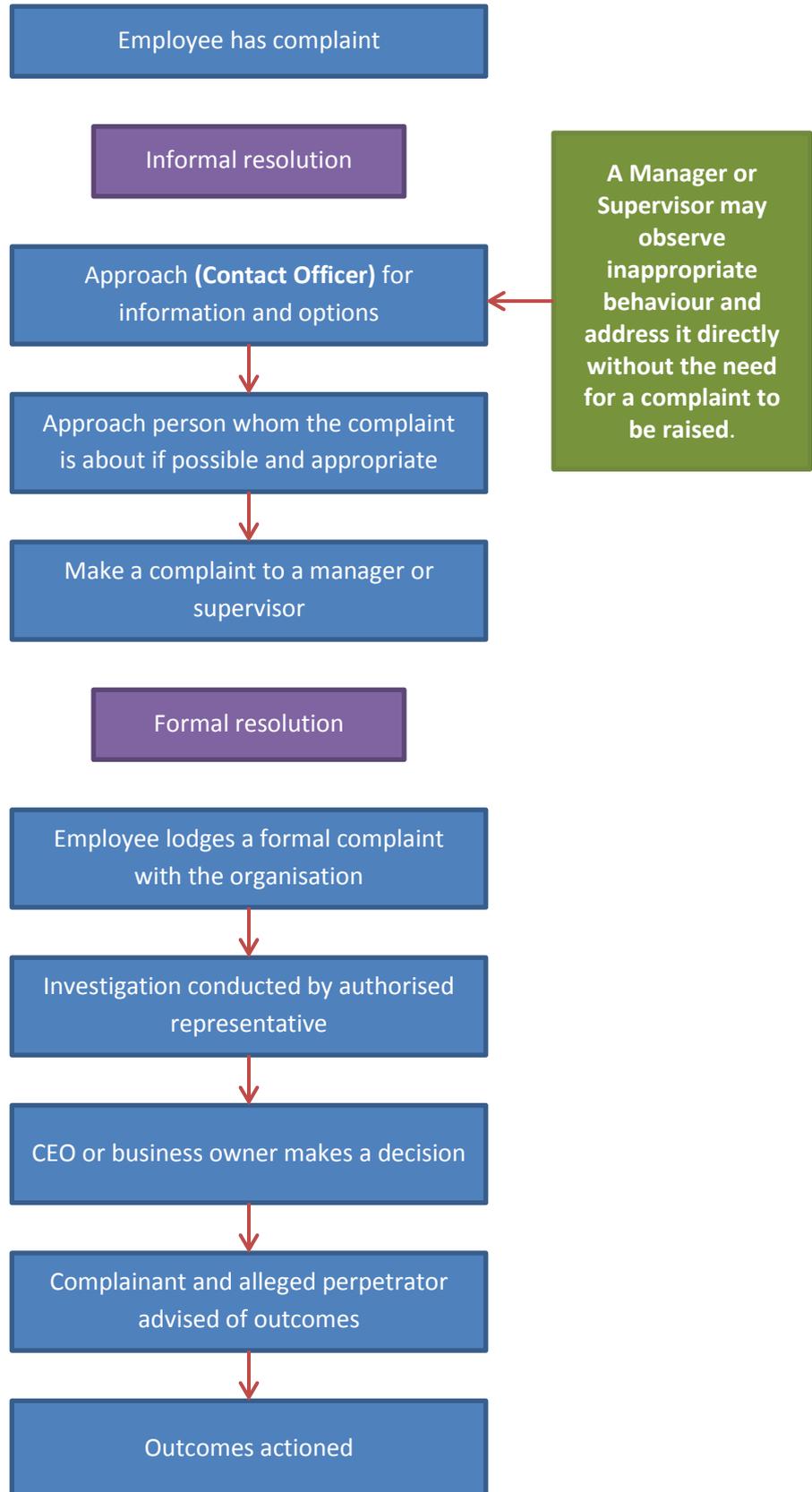
(Company name) is committed to providing an environment which is safe for all staff. You will not be disadvantaged in your employment conditions or opportunities as a result of lodging a complaint.

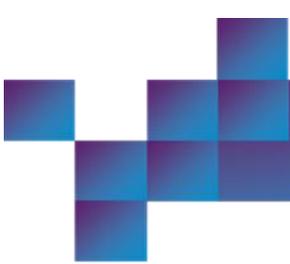
Signed.....

Position: **(Chief Executive of Company)**

Sample: Complaint flow chart

Sample: Complaint flow chart





Need more help?



BRISBANE

Street Address

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BRISBANE QLD 4000

Telephone: 1300 130 670 (Toll Free) or (07) 3021 9100
TTY: 1300 130 680
Fax (07)3247 0960

Postal Address

City East Post Shop
PO Box 15565
CITY EAST QLD 4002

TOWNSVILLE

Street Address

Ground level, 187-209 Stanley Street
TOWNSVILLE QLD 4810

Telephone: 1300 130 670 (Toll Free) or (07)4421 4000
Fax: (07)4799 7021

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PO Box 1566
TOWNSVILLE QLD 4810

CAIRNS

Street Address

McLeod Chambers
78 Spence Street
CAIRNS QLD 4870

Telephone: 1300 130 670 (Toll Free) or (07)4037 2100
Fax: (07)4039 8609

Postal Address

PO Box 4699
CAIRNS QLD 4870

ROCKHAMPTON

Street Address

1st Floor, State Government Centre
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ROCKHAMPTON QLD 4700

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Email - all offices

General
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Right to information

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