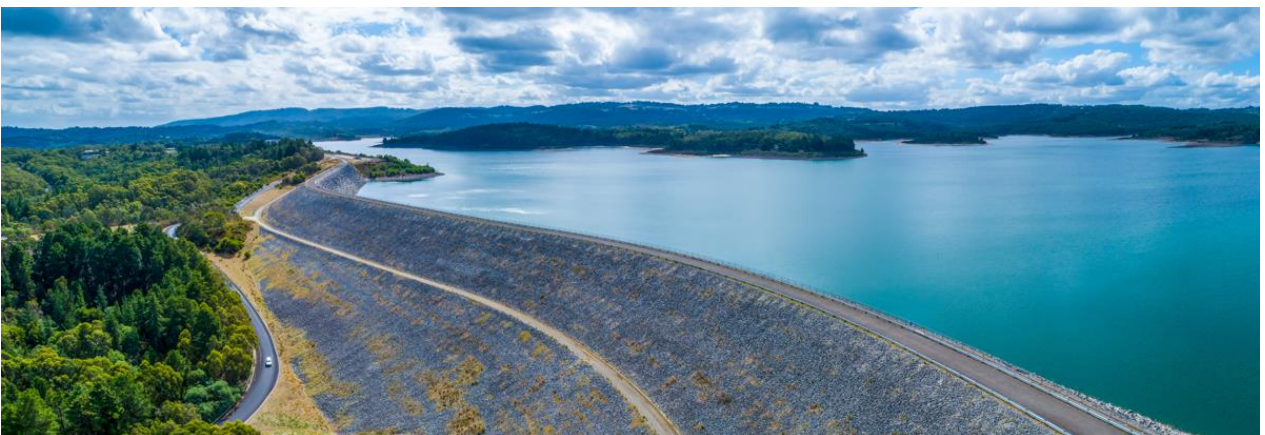




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## DISCRIMINATION, HARASSMENT AND BULLYING POLICY



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# 1. INTRODUCTION

## 1.1 Definitions

Personnel	All employees, contractors, consultants, and visitors of the Pacific Energy group of companies (the Group).
Employees	Any person with a direct employment relationship with the Group and therefore paid by the Group either through wages or salary.
Manager	An individual employee's direct supervisor/manager
CEO	Chief Executive Officer

## 1.2 General Statement of Policy

The Group is committed to providing a safe, flexible, and respectful environment for employees free from all forms of discrimination, bullying and sexual harassment.

The Group's philosophy is that all employees have the right to be treated equally and with dignity, respect and courtesy.

## 1.3 Purpose

The Group's policy serves as a guide to what is appropriate and responsible behaviour whether at the workplace or when representing the Group at any time or location.

Employees are expected to uphold this policy. The Group has a legal obligation to take all reasonable steps to ensure that its workplace is free of any form of discrimination, harassment, sexual harassment, bullying and victimisation. These types of conduct are unlawful and will not be tolerated under any circumstances.

Any instance of such inappropriate behaviour, as outlined in this policy, will be investigated promptly and confidentially. Disciplinary action, which may include termination of employment, will be taken against any person found to have breached this Policy.

## 1.4 Scope

All employees contribute to the creation of a discrimination free and inclusive workplace and a healthy workplace culture.

Managers have a particular obligation to model appropriate behaviour at all times, promote this policy, treat all complaints seriously and attend to them promptly and monitor the work environment.

All employees have the responsibility to comply with this policy; report incidents to their managers and not to participate in discriminatory, bullying or harassing behaviour.

This policy relates to the treatment of all Group personnel.

This policy is not limited to the workplace or working hours, and will include all work-related events including, but is not limited to; lunches, functions, meetings, conferences, remote workplaces & associated accommodation.

This policy also applies to all communication tools related or associated to an individual's relationship with the Group, such as but not limited to use of email, online collaboration tools, mobile phones, an/or social media.

## 2. UNACCEPTABLE AND INAPPROPRIATE BEHAVIOUR

Behaviours that are deemed unacceptable and inappropriate are:

- Discrimination;
- Harassment / Sexual Harassment;
- Bullying;
- Victimisation; and
- Vilification.

Unacceptable and inappropriate behaviour may be:

- Intended or unintended; and
- Physical, verbal, written or indirect.

## 3. DISCRIMINATION

All forms of discrimination are covered by this policy. Discrimination, which includes both **direct** and **indirect** discrimination, is essentially any practice that makes distinctions between individuals or groups so as to disadvantage some or advantage others.

**Direct** discrimination occurs when a person, or a group of people, are treated less favourably than another person or group, in the same or similar circumstances, because of irrelevant attributes such as their age, race, sex, marital status, or family responsibilities; etc.

**Indirect** discrimination occurs when an apparently neutral requirement, condition or rule unfairly impacts on people with a particular attribute or characteristic (e.g., disability, gender or race) compared to people without that attribute, and the rule or requirement is not reasonable in the circumstances. For example, providing a service on the first floor of a building where the only access is by stairs could, in some circumstances, be considered indirect discrimination against a person with impaired mobility.

It is unlawful to discriminate based on the following characteristics:

- Age (being regarded as too young or too old)
- Family responsibility (having a caring role) and/or carer status
- Family status (being a relative of a particular person or being a particular relative)
- Gender history and/or identity (having a reassigned gender)
- Disability or impairment (having a physical, intellectual or mental disability)

- Marital status (being single, married, a de facto partner, separated, divorced or widowed)
- Political conviction (including a lack of conviction)
- Pregnancy or possible pregnancy
- Race (including colour, ethnicity or national origin or descent)
- Religious conviction (including a lack of conviction)
- Sex (being a man or woman)
- Sexual orientation (including heterosexuality, homosexuality, lesbianism, bisexuality) and lawful sexual activity
- Social origin (family background or local origin)
- Breastfeeding
- Physical features (height, weight, birthmarks, scarring, etc.)
- Industrial Activity

Discrimination may involve, but is not limited to:

- offensive jokes, questions or suggestions, or derogatory comments, about another employee's racial or ethnic background, sex, sexual orientation, gender identity, gender expression, disability or physical appearance;
- stereotyping by expressing assumptions about an individual's or a group's behaviour, values, culture or abilities on the basis of racial or ethnic background;
- displays of images such as pictures, calendars, pin-ups, poster, computer images (e.g., emails) etc. which are offensive and derogatory; and
- racist language by the using terms which are regarded as offensive or derogatory to describe racial or ethnic groups.

## 4. HARASSMENT

### 4.1 Harassment

Harassment is defined as unwelcome, offensive, abusive, belittling, or threatening behaviour or language that has the effect of intimidating, offending, or humiliating a person. Harassment may be verbal, written, visual or physical in nature. Harassment will usually be repeated behaviour but can also consist of a single act.

Generally, harassment is any behaviour that is:

- not wanted, not asked for and not returned;
- likely to humiliate, seriously embarrass, offend, and/or intimidate someone; or
- based on a personal characteristic (disability, ethnicity, gender, age, sexual orientation).

Examples of harassment are as follows (but are not limited to):

- spreading rumours;
- making fun of someone;
- obscene telephone calls/letters/e-mail messages;

- offensive jokes;
- repeated questions about someone's personal life;
- threats or insults;
- name calling; or
- use of inappropriate language.

## 4.2 Sexual Harassment

Sexual harassment includes an unwelcome sexual advance or request for sexual favours or unwelcome conduct of a sexual nature. The behaviour must be such that the harassed person has reasonable grounds to believe if they reject the advance, refuse the request or object to the conduct they will be disadvantaged, or they are in fact disadvantaged. Sexual harassment does not need to be repeated or continuous, it can involve a single incident.

Sexual harassment can take numerous forms including, but not limited to:

- sexual advances and invitations;
- requests for sexual favours;
- sexual innuendo;
- verbal or physical contact such as leering, touching, patting or brushing against a person;
- offensive jokes, remarks, spreading rumours of a sexual nature or about a person's sexual or private life;
- displays of pornography and sexually explicit and offensive material; or
- telephone, email, text messages or mail that may be sexually explicit, offensive and obscene.

Sexual harassment also includes behaviour that is an offence under criminal law such as physical assault, indecent exposure, sexual assault, stalking or obscene communications. A person who is found to have sexually harassed another may have committed a criminal offence and be subject to the associated penalties.

Each supervisor/line manager has a responsibility to maintain the workplace free of any form of sexual harassment. In addition, no supervisor is to favour in any way an employee because that person has performed or shown a willingness to perform sexual favours.

If such behaviour makes an employee feel offended, humiliated, or intimidated, then harassment and/or discrimination is occurring in the workplace and immediate action is required.

## 4.3 Intent

A person does not need to intend to offend, humiliate, or intimidate, or even to know that this was the effect of the behaviour for this conduct to be against the law.

The conduct will amount to harassment if a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated, insulted or intimidated.

## 5. BULLYING

### 5.1 Workplace Bullying

Workplace bullying is usually (but not always) repeated, inappropriate, offensive, or degrading behaviour by one or more persons against another or others, at the place of work and/or in the course of employment. Workplace bullying can be direct or indirect and could reasonably be regarded as undermining the individual's right to dignity at work. Bullying creates a risk to an individual's mental or physical health and safety.

A bully is a person who uses their strength or power to coerce others by fear or to persecute or oppress by force and threat. Bullying constitutes offensive treatment through vindictive, cruel, malicious, or humiliating attempts to undermine an individual.

Bullying behaviour may include (but is not limited to):

- repeated shouting, swearing, personal insults and name calling,
- persistent criticism,
- spreading unfounded rumours,
- ignoring or excluding someone from the work / training group,
- persecution through instilling fear and making threats,
- constantly undervaluing effort,
- public reprimands and humiliation
- refusing to listen to another's point of view
- removing areas of responsibility and/or refusing to delegate,
- constantly changing targets or work deadlines,
- withholding work related information or supplying incorrect information
- blocking applications for leave, training or promotion.

### 5.2 What Isn't Bullying?

An isolated incident of inappropriate or unreasonable behaviour may be an affront to dignity at work but as a one-off incident it is not considered to be bullying. However, since an employer has a general duty to provide employees with a safe workplace and systems of work, single incidents of this type should not be ignored.

It is important to differentiate between a person's legitimate authority at work and bullying. All employers have a legal right to direct and control how work is done, and managers have a responsibility to monitor workflow and give feedback on performance.

If an employee has obvious performance problems, these should be identified and dealt with in a constructive way that does not involve personal insults or derogatory remarks. In situations where an employee is dissatisfied with management practices, the problem should also be raised in a manner that does not involve personal abuse.

For clarity, bullying does not include:

- Reasonable management action;
- Genuine and reasonable disciplinary processes;
- Reasonable performance management such as constructively delivered feedback or counselling that is intended to assist individuals to improve their work performance or the standard of their behaviour. For example, objective comments which indicate observable performance deficiencies; or
- Directing and controlling how work is done (a fundamental right of employers).

## 6. VICTIMISATION

Victimisation occurs where a person is treated or threatened to be treated in an adverse manner because of making or threatening to make a complaint. This means subjecting or threatening to subject someone to a detriment, because they propose to, have, or are believed to have, under this procedure, equal opportunity legislation or occupational health and safety legislation:

- asserted their rights under this procedure, or the relevant legislation;
- alleged that another person has breached this procedure or the relevant legislation; or
- assisted someone in raising an issue.

A detriment in employment includes demotion, dismissal, transfer, suspension, loss of a benefit, being ostracised from work- or work-related social functions, or being the subject of gossip and innuendo.

It is unacceptable and against the law for any person to be treated differently because they decided to exercise their legal rights under anti-discrimination laws or to help someone else do the same.

## 7. VILIFICATION

Vilification is any public act that incites, urges, or encourages hatred or severe ridicule towards a person, or group of people, because they are (or are thought to be) members of a particular group or because of a particular attribute.

The Group will not tolerate vilification in the workplace.

Any employee found to have engaged in vilification may be the subject of disciplinary action which may result in termination of employment. Appropriate action will also be taken where a person who is not an employee of the Group, but still engaged to perform work for the Group, is found to have engaged in vilification.

Certain forms of vilification, such as racial vilification, are unlawful; however, the fact that a type of vilification is not unlawful does not mean that it does not breach this Standard.



## **8. RESPONDING TO INSTANCES OR REPORTS OF BULLYING, HARASSMENT OR DISCRIMINATORY BEHAVIOUR**

### **8.1 Confidentiality**

An accusation of any inappropriate behaviour, as defined in this policy, can be potentially defamatory. Confidentiality should be respected and maintained at all times when taking action or responding to claims of bullying, harassment or discrimination.

Only the people directly involved in a complaint or in resolving it, should have access to information about the issue. Those involved should also be told about the requirements of confidentiality and their resulting obligations. Discussions, information, and records related to complaints will remain factual. When confidentiality cannot be guaranteed, this must be clearly indicated.

### **8.2 No Victimisation**

The Group will take all necessary steps to ensure that no victimisation occurs against anyone who makes a complaint. Should an employee (the first employee) victimise another employee for making a complaint, the first employee shall be disciplined including as to potential termination of employment.

No action will be taken against anyone for making a valid, truthful complaint or helping someone in making a valid, truthful complaint. Disciplinary action, including possible termination, may ensue against employees who make deliberately false and/or malicious complaints.

### **8.3 Respect**

All parties have a right to be treated with respect. All parties have a right to be informed of what has been alleged against them and to put their case in reply.

### **8.4 Impartiality**

All parties have the right to be treated with impartiality and for any decision to be made by an impartial decision-maker. All parties have the right to appeal against a decision.

### **8.5 Timeliness**

Any allegation of inappropriate behaviour, as defined in this policy, will be investigated in a timely fashion and action taken to facilitate a timely resolution to the issue.

## **9. DISPUTES RESOLUTION PROCESS**

Parties who believe they are the victims of any inappropriate behaviour, as defined in this policy, should use the following processes to resolve their grievances.

### **9.1 Informal Process**

In many cases, simply telling the person concerned that their behaviour is causing distress, explaining why it is unwelcome and asking for it to stop will be sufficient. Often, the person is not aware that their behaviour is causing distress, and they will stop immediately once told.

You may decide to:

- personally approach the person or people involved to resolve your concerns by notifying them that their behaviour is unwelcome or unacceptable and that it should stop immediately and not occur again;
- speak to your manager or Human Resources (HR) to discuss your concerns; or
- write a letter to the alleged offender, telling them that their behaviour is unwelcome or unacceptable and that it should be stopped immediately and not occur again.

## 9.2 Formal Process

If a complaint cannot be resolved by direct discussion, or you do not feel comfortable addressing the issue face to face, a formal complaint must be made in writing to HR.

### Stage 1 – Investigation

Following the written complaint, HR may investigate any allegations. As part of the investigation, you, the person against whom the allegations have been made (the respondent to the complaint), and any witnesses, will be interviewed separately. The respondent to the complaint will be provided with a summary of the allegations made.

Depending on the circumstances of the complaint, the respondent to the complaint and other employees involved in the investigation, may be stood down from their duties and sent home on full pay during the period when the investigation is being carried out.

All investigations will follow the relevant Group investigation procedure.

### Stage 2 – Resolution

If a complaint is found to be unsubstantiated, no further action will be taken against the respondent to the complaint. If no further action is to be taken, the reason for this decision should be explained to both parties.

If a complaint is substantiated, the possible outcomes include, but not limited to:

- mediation – this is a process where parties are brought together to try and reach agreement as to how the complaint should be resolved. Mediation provides the opportunity for a good working relationship to be re-established between the parties;
- an apology from the respondent to the complaint;
- agreed forms of future behaviour;
- action to redress the behaviour the subject of the complaint;
- transferring either of the parties to a different work location; or
- taking disciplinary action against the respondent to the complaint.

A combination of the above outcomes may be used.

Disciplinary action may include:

- issuing a verbal or written warning;
- downgrading the person's position, status or responsibility; or
- terminating the employment or engagement of the respondent, either with notice or summarily without notice.

When an outcome has been arrived at, the decision and action to be taken will be communicated in writing to the respective parties. The overall process should not normally exceed 30 working days.

### **9.3 Withdrawing a Complaint**

Complaints may be withdrawn at any time. In most cases, if you withdraw a complaint then no further action will be taken. Where, however, the Group suspects that a breach of this policy has occurred then the Group reserves the right to investigate any such breach.

### **9.4 False Accusations, Vexatious Complaints and Defamation**

If a person intentionally makes false allegations that another person has engaged any inappropriate behaviour as defined by this policy, then that person may be defaming the other person. It is therefore very important that all complaints of unacceptable conduct are based on truth and fact.

Intentionally false accusations, or allegations that are found to be unsubstantiated because they are of a frivolous or vexatious nature will be viewed seriously and, where found to be intentional or malicious, may result in the Group taking disciplinary action.

## **10. POLICY IMPLEMENTATION**

### **10.1 Breach of this Policy**

Failure to comply with the principles of this policy could result in appropriate disciplinary actions, including termination. Additionally, individuals may be subject to loss of Group access and privileges.

### **10.2 Policy Review**

The CEO will monitor the effectiveness and review the implementation of this policy, considering its suitability, adequacy and effectiveness. Any improvements identified will be made as soon as possible.

All employees are responsible for the success of this policy and should ensure they use it to disclose any suspected wrongdoing.

Employees are invited to comment on this policy and suggest ways in which it might be improved. Comments, suggestions, and queries should be addressed to the Group Secretary.

This policy will be reviewed annually by 20 December.

### **10.3 Dissemination of Policy**

A copy of this policy will be provided to each employee upon commencement of employment and additional copies will be made available upon request.

## 10.4 Related Documents

### 10.4.1 Legislation

- (i) Age Discrimination Act 2004 (Cth)
- (ii) Australian Human Rights Commission Act 1986 (Cth)
- (iii) Disability Discrimination Act 1992 (Cth)
- (iv) Disability Services Act 1993 (WA)
- (v) Equal Opportunity Act 1984 (WA)
- (vi) Occupational Safety and Health Act 1984 (WA)
- (vii) Racial Discrimination Act 1975 (Cth)
- (viii) Sex Discrimination Act 1984 (Cth)
- (ix) Gender Reassignment Act 2000 (WA)
- (x) Workplace Gender Equality Act 2012 (Cth)
- (xi) Racial Hatred Act 1995 (Cth)
- (xii) Fair Work Act 2009 (Cth)

### 10.4.2 Related Policies

- (i) POL-HRS-005 Code of Conduct Policy
- (ii) Grievances and Disputes Policy
- (iii) POL-HRS-002 Diversity and Equal Opportunity Policy



Jamie Cullen  
**Group CEO**

14 September 2021

## 11. POLICY VERSION CONTROL

Date	Author/Department	Version Number	Change Summary
30/11/2017	M Macaskill	1.0	Author
30/11/2017	J Cullen	1.0	Approved
07/10/2020	M Macaskill	2.0	Reviewed
07/10/2020	J Cullen	2.0	Approved
08/09/2021	M Macaskill	3.0	Reviewed
14/09/2021	J Cullen	3.0	Approved