

Equal Employment Opportunity, Harassment and Bullying Policy

Purpose

The purpose of this policy is to seek to create for Hamilton Island and its Workers a work environment that is free from discrimination, harassment, bullying and other unlawful conduct in breach of applicable equal employment opportunity laws at a State and Federal level (**EEO Laws**), as well as to promote employment and engagement decisions based on merit, and not based on irrelevant personal characteristics.

This policy should also be read in conjunction with the Hamilton Island Code of Conduct and the Hamilton Island Rules and Regulations, as varied or replaced from time to time, both of which also outline, among other things, conduct and behaviour expectations applying to Workers (including when off duty) with which Workers must comply.

Scope

This policy applies to all workers (including employees, contractors, volunteers, apprentices and work experience students) employed or engaged by Hamilton Island Enterprises Limited, Hamilton Island Shared Services Pty Ltd or another subsidiary or related entity (**HIE**).

It is not limited to the workplace or to work hours and extends to out of hours, and out of workplace, conduct that is sufficiently connected to work.

Definitions

For the purposes of this policy, the following terms have the following meanings:

Hamilton Island	Anything related to or associated with the operation of Hamilton Island Resort including but not limited to its accommodation, activities, events, guests, visitors, residents, employees and the owners.
HIE	Hamilton Island Enterprises Limited, Hamilton Island Shared Services Pty Ltd and all other subsidiaries and related entities.
Worker	Employees, contractors, volunteers, apprentices and work experience students employed or engaged by Hamilton Island Enterprises Limited, Hamilton Island Shared Services Pty Ltd, or any other subsidiary or related entity.

Policy

EEO Laws

EEO Laws apply to all areas of employment, including recruitment, terms and conditions of employment, promotion, transfer, training, leave and termination of employment. They also apply to the provision of goods and services, which means that Workers must not engage in any unlawful conduct in contravention of applicable EEO Laws towards clients or customers of Hamilton Island or any of its related bodies corporate (**HIE**).

The key EEO Laws that currently apply in the locations in which HIE operates or employs or engages Workers are:

Federal	<i>Racial Discrimination Act 1975 (Cth)</i> <i>Sex Discrimination Act 1984 (Cth)</i> <i>Disability Discrimination Act 1992 (Cth)</i> <i>Age Discrimination Act 2004 (Cth)</i> <i>Australian Human Rights Commission Act 1986 (Cth)</i>
----------------	--

Equal Employment Opportunity, Harassment and Bullying Policy

	<i>Fair Work Act 2009 (Cth)</i> <i>Work Health and Safety Act 2011 (Cth)</i> <i>Workplace Gender Equality Act 2012 (Cth)</i>
New South Wales	<i>Anti-Discrimination Act 1977 (NSW)</i> <i>Work Health and Safety Act 2011 (NSW)</i>
Queensland	<i>Anti-Discrimination Act 1991 (QLD)</i> <i>Industrial Relations Act 2016 (QLD)</i> <i>Human Rights Act 2019 (QLD)</i> <i>Work Health and Safety Act 2011 (QLD)</i>
Victoria	<i>Equal Opportunity Act 2010 (VIC)</i> <i>Occupational Safety and Health Act 2004 (VIC)</i> <i>Racial and Religious Tolerance Act 2001 (VIC)</i>
Western Australia	<i>Equal Opportunity Act 1984 (WA)</i> <i>Spent Convictions Act 1988 (WA)</i> <i>Work Health and Safety Act 2020(WA)</i>

General matters

HIE:

- requires all Workers to comply with applicable EEO Laws and this policy by not engaging in unlawful discrimination, sexual harassment (including harassment on the ground of sex and creating workplace environments that are hostile on the ground of sex), bullying, vilification or victimisation at or in connection with work; and
- takes reasonable and proportionate steps, so far as possible, to ensure that Workers do not engage in unlawful conduct in contravention of applicable EEO Laws and this policy, and that Workers, and clients, customers and guests of the Group, are not subjected to unlawful conduct in contravention of applicable EEO Laws and this policy.

Workers are legally responsible for their own behaviour. This means a Worker may be personally sued if they breach applicable EEO Laws, or if they aid, abet, induce or assist another person to do so.

In circumstances where a Worker's conduct may involve a breach of any Australian law, Hamilton Island may be required by law to notify the police or other relevant authority.

Discrimination

Discrimination occurs when a person is treated less favourably because of a protected attribute. Protected attributes are set by law and differ between the States and Territories.

A non-exhaustive list of some of the more common protected attributes prescribed under EEO Laws is set out below:

- Age
- Race, colour, national or ethnic origin, descent, nationality
- Gender, gender identity, sexual orientation or intersex status
- Marital/relationship status
- Status as a parent, status as a carer, family or carer's responsibilities
- Pregnancy or potential pregnancy
- Disability / impairment (physical, intellectual and mental)

Equal Employment Opportunity, Harassment and Bullying Policy

- Religious beliefs
- Political belief or activity
- Trade union membership or activity
- Breastfeeding
- Personal association with someone (such as a friend or relative) who has (or is assumed to have) one of these characteristics.

Discrimination can occur in two ways:

- Direct Discrimination: which is the less favourable treatment of a person because of a protected attribute compared to another person without that attribute in same or similar circumstances; and
- Indirect Discrimination: which is the imposition of an unreasonable rule/practice/requirement, which appears on its face to be neutral but in practice disadvantages a person or persons with a protected attribute.

Examples of discrimination include:

- Failing to offer training to an older employee because it is assumed they will retire soon;
- Failing to give a female employee a promotion because she has children or could become pregnant;
- Excluding or isolating a person because of their religion;
- Offensive comments about a person's sexuality;
- Teasing a person about their disability;
- Scheduling meetings at 7am where that is not reasonable in circumstances where persons with family responsibilities (such as parents) are unable to attend at that time.

A person can unlawfully discriminate against another person even if they did not intend to do so, if they nevertheless treat that person less favourably, because of one of the protected attributes.

Subject to very limited exceptions, discrimination in employment or in the provision of goods and services is unlawful. Hamilton Island may be liable for unlawful discrimination in employment or in the provision of goods and services and so it expressly prohibits unlawful discrimination by its Workers.

Individual Workers may be personally sued if they engage in unlawful discrimination.

Vilification

Vilification is a public act which incites hatred, serious contempt for or severe ridicule of a person or group of people, because of their race, religion, and, under some applicable EEO Laws, sexuality, gender identity or because they have HIV/AIDS. Serious vilification involves threats of physical harm or damage to property on the same grounds and is a punishable criminal offence.

Vilification and serious vilification are particularly serious breaches of EEO Laws and will be dealt with accordingly by HIE.

Examples of vilification include:

- A person announcing hatred of a colleague because they are transgender and encouraging others to take the same view; and
- Making derogatory comments about an employee's religious faith in a group of employees.

Equal Employment Opportunity, Harassment and Bullying Policy

Sexual Harassment (and Sex Based Harassment)

Sexual harassment occurs where a person makes an unwelcome sexual advance, an unwelcome request for sexual favours, or engages in other unwelcome conduct of a sexual nature, in relation to a person, where a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

Examples of sexual harassment may include:

- Uninvited kisses and touching
- Comments or gestures of a sexual nature
- Requests for sex
- Intrusive questions about someone's private life
- Staring or leering
- Display of sexually explicit material
- Obscene emails, text messages or screen savers.

Sexual harassment does not include behaviour which is based on mutual attraction, friendship and respect. If the interaction is consensual, welcome or reciprocated it is not sexual harassment.

Sexual harassment can arise from a one-off act, or a repeated course of conduct. It can occur across various mediums, including face to face and over technology, including via social media, text or email. It can also manifest where the work environment is hostile on the ground of sex, because, for example, it tolerates or allows things like the displaying of pornographic or obscene material, sexual banter, or offensive jokes and innuendo.

At a Federal level, the *Sex Discrimination Act 1984* (Cth) also prohibits harassment of another person on the ground of sex if, as a result of the sex of the person harassed (or a characteristic that appertains to, or is generally imputed to, a person of that sex), the harasser engages in unwelcome conduct of a demeaning nature in relation to the person harassed, in circumstances where a reasonable person, having regard to all of the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated (**Sex Based Harassment**). Sexist remarks are a potential example of Sex Based Harassment.

Conduct can amount to sexual harassment (including Sex Based Harassment) even if the person did not intend to offend, humiliate or intimidate the other person.

EEO Laws prohibit sexual harassment (including Sex Based Harassment) against both men and women. Same-sex sexual harassment is also covered.

Sexual harassment (including Sex Based Harassment) in the workplace is unlawful. Hamilton Island may be liable for such conduct at work and so it expressly prohibits sexual harassment (including Sex Based Harassment) in connection with work. Workers may also be personally sued or subject to criminal charges if they engage in sexual harassment (including Sex Based Harassment).

Bullying

Bullying is repeated, unreasonable behaviour directed towards an individual or group that creates a risk to health and safety.

Equal Employment Opportunity, Harassment and Bullying Policy

Unreasonable behaviour means behaviour that a reasonable person, in the circumstances, would expect to victimise, humiliate, intimidate or threaten.

Bullying may also amount to unlawful discrimination if it pertains to a protected attribute. However, a person can be bullied for any reason, and bullying does not need to relate to a protected attribute for it to be unlawful.

For conduct to constitute bullying it must be repeated. A one-off incident is not bullying.

There is no requirement that the person deliberately or intentionally bully the person, however, intention may be relevant in assessing the severity of the conduct.

Bullying in the workplace is unlawful. Hamilton Island may be liable for bullying at work and so expressly prohibits bullying in connection with work. Individual Workers may also be personally liable and can face potential criminal charges if they engage in bullying.

Some examples of behaviour that may be considered bullying, if it is unreasonable, repeated and creates a risk to health and safety, include:

- Insulting or demeaning language or comments;
- Physical or verbal threats or intimidation;
- Unjustified criticism or complaints;
- Isolating or excluding colleagues;
- Initiation rites; and
- Ganging up on a Worker.

Low level workplace conflict is unlikely to constitute bullying. Equally, reasonable management action taken in a reasonable way will not constitute bullying. Reasonable management action may include:

- giving work directions and allocating work in accordance with business needs;
- counselling a Worker about their unsatisfactory work performance or conduct when undertaken in a reasonable manner;
- setting reasonable performance goals, standards and deadlines;
- rostering and allocating working hours where the requirements are reasonable;
- implementing organisational changes or restructuring;
- informing a Worker about inappropriate behaviour in an objective and confidential way; or
- transferring a Worker for operational reasons.

Victimisation

Victimisation is where a person is retaliated against or treated detrimentally because they have lodged a complaint, they intend to lodge a complaint or they are involved in a complaint of unlawful conduct. Victimisation in the workplace is also unlawful.

If a Worker feels they have been subjected to unlawful conduct, they are encouraged to raise the issue using the complaint procedure outlined in this policy. Hamilton Island will not treat a Worker less favourably in their employment or engagement because they have made a complaint. Workers must also not retaliate against a person who raises a complaint (or participates in a complaint procedure) or otherwise subject them to any detriment. However, where a person lodges a false complaint in bad faith, that person may be disciplined.

Equal Employment Opportunity, Harassment and Bullying Policy

Examples of victimisation include:

- Excluding or isolating a person because they have lodged a complaint; or
- Failing to promote a person because they have lodged a complaint.

Responsibility of Workers

HIE requires all Workers to behave and act responsibly, including by complying with this policy and applicable EEO Laws. If an employee breaches this policy, they may be subject to disciplinary action, up to and including termination of employment. Contractors who are found to have breached this policy may have their contract with HIE terminated or not renewed.

As noted throughout this policy, Workers can be held legally responsible for their own unlawful conduct under applicable EEO Laws, and under criminal law in some instances. Workers who aid, abet or encourage others to engage in unlawful conduct can also be liable for their conduct.

Complaints Procedure

If a Worker feels they have been subject to, or witnessed, any form of unlawful conduct contrary to EEO Laws or this policy, they should not ignore it. HIE encourages all Workers to raise issues which arise under this policy by using the Complaints Procedure – EEO Policy, and will treat all complaints seriously and in accordance with the Complaints Procedure – EEO Policy.

While HIE's goal is to resolve issues internally wherever possible applying the Complaints Procedure, Workers may seek the assistance of an outside agency or body if they feel that their complaint has not been adequately addressed.

Subject to change

This policy does not form part of any contract between a Worker and HIE. Any reference to obligations or requirements of Hamilton Island in this policy is not intended to give rise to contractual obligations binding on HIE.

If you are unsure about any matter covered by this policy, please seek the assistance of People, Culture and Development at employeerelations@hamiltonisland.com.au.

HIE may amend, vary or replace this policy at any time.

Document approval

Approved by: General Manager, People Culture and Development

Created: January 2016

Updated: May 2023