

1.0 Policy Statement

Lower Murray Water (LMW) has a ZERO tolerance toward Bullying, Harassment and Discrimination which is defined by the relevant Human Rights, Sex Discrimination and Equal Opportunity Acts

LMW endeavours to provide a workplace which is free from bullying, harassment and unlawful discrimination. LMW aims to ensure all those participating in the workplace or engaging with our organisation are treated with respect, dignity and fairness. We aim to create an inclusive environment which promotes positive working relationships.

Bullying and harassment in the workplace is unacceptable and unlawful and under the Sex Discrimination Act 1984 organisations have a requirement to demonstrate proactive and meaningful action to prevent discrimination and harm from occurring in the workplace or in connection to work. Unlawful behaviours can be described as:

- Discrimination on the grounds of sex in a work context
 - Sexual harassment in connection with work
 - Sex-based harassment in connection with work
 - Conduct creating a workplace environment that is hostile on the grounds of sex
- Related acts of victimisation

2.0 Purpose

This policy is designed to ensure that all employees understand what will be regarded as unlawful behaviour and the proactive measures that LMW will take to prevent any form of bullying, harassment or discrimination from occurring in our workplace or associated with any work undertaken by an LMW employee.

This policy will also outline the actions LMW will take to investigate and manage any suspicion of unlawful behaviour, regardless of whether a complaint has been received or not. Ensuring effective measures are in place to enable identification of unlawful behaviour (conscious or unconscious) will form part of LMW's positive duty as well as providing regular and purposeful education for all staff regarding what constitutes acceptable and inclusive behaviour in the workplace.

3.0 Scope

This policy applies to the below stakeholders, and they must be notified of any changes to this policy by the Custodian.

- All Lower Murray Water employees, contractors, customers, vendors, and clients of LMW.

4.0 References

- Sex Discrimination Act 1984 + Respect@Work Amendments
- Equal Opportunity Act 2010
- Occupational Health and Safety Act 2004
- Work Health and Safety Act 2011
- Fair Work Act 2009
- Australian Human Rights Commission Act 1986
- Racial Discrimination Act 1975
- Disability Discrimination Act 1992
- Age Discrimination Act 2004
- Guidelines for Complying with Positive Duty under Sex Discrimination Act
- Crimes Act 1958 + Crimes Amendment (Bullying) Act 2011
- Privacy Act 1988
- Local Government Act 2020
- Victorian Public Sector Commission (VPSC) Code of conduct for Victorian public sector employees

- LMW People Strategy (CTD/004121)

5.0 Definitions

Term/Abbreviation	Description
LMW	Lower Murray Water
RMS	Records Management System
T&PE	Talent & People Experience Team (People Team)
ESC	Essential Services Commission
OH&S	Occupational Health and Safety
EA	Enterprise Agreement
Sexual Harassment	Unwanted sexual advances, favours and unwelcomed conduct of a sexual nature, which can cause intimidation, humiliation or offence.
Sexual Discrimination	Remarks regarding a person or groups sex and sexuality that is demeaning in nature, which could cause humiliation, intimidation or offence.
Bullying	<p>An individual or groups repeated behaviour which is unreasonable to other people or groups and creates a risk to health & safety.</p> <p>Direct bullying occurs between the specific people involved.</p> <p>Indirect bullying involves third parties participating in bullying behaviours, for example passing on insults or spreading rumours. Indirect bullying mostly inflicts harm by damaging another's social reputation, peer relationships and self-esteem.</p>
Positive Duty	A business to apply reasonable and proportionate measures to eliminate risks as far as possible.
Discrimination	<p>When a person is treated less favourably or harassed in certain areas of public life including their employment because of a personal characteristic or prescribed attribute that is protected under law.</p> <p>Direct discrimination occurs when a person is denied a benefit or an opportunity on the grounds of any of the prescribed attributes.</p> <p>Indirect discrimination occurs when a policy, rule or practice has a discriminatory effect against a person or group of people in relation to any of the prescribed attributes.</p>
SMS	A technology for sending short text messages between mobile phones.
MS Teams	Microsoft application used by LMW for internal collaboration and messages.

6.0 Policy

6.1 Professional and appropriate behaviour.

It is expected that all employees and contractors display and treat fellow colleagues in line with LMW's Organisational Values to ensure the health and safety of everyone. Any behaviours that are not in line with these values are considered unacceptable and may constitute unlawful behaviour.

A failure to behave in accordance with this policy will be managed under clause 25 (unsatisfactory performance) of the Lower Murray Urban and Rural Water Corporation Enterprise agreement (EA) and may be considered serious misconduct. Any behaviour that contravenes this policy may be subject to disciplinary action, up to and including termination of employment for employees or cessation of engagement or services for contractors. Customers or visitors deemed to be behaving in contravention of this policy may have restrictions regarding how they engage with our services and with whom.

LMW will provide relevant and appropriate training to all employees and contractors around bullying, harassment and discrimination.

6.1.2 Positive duty and zero tolerance approach to Bullying, Harassment and Discrimination

In accordance with LMW's positive duty obligations under the Sex Discrimination Act we take a ZERO tolerance approach towards any behaviours which constitute bullying, harassment or discrimination. All of these acts are a risk to employee's health and wellbeing and place an unacceptable risk to the safety of our workplace. Behaviours which constitute bullying, harassment or discrimination can leave a person feeling humiliated, victimised, or unsafe.

If sufficient evidence is confirmed that a single or multiple incidents which constitutes bullying, harassment or discrimination have occurred, LMW will consider this action/s to be a serious violation of the Victorian Public Sector Commission (VPSC) Code of Conduct. Unlawful conduct will be managed in accordance with Clause 25.2 of LMW's EA. LMW may also report the act to the relevant authorities and provide evidence of the occurrence.

LMW will apply the Seven Standards described in the guidelines for complying with the positive duty under the Sex Discrimination Act 1984.



For more detail regarding the standards refer to LMW's Bullying, Harassment and Discrimination Procedure (CTD/004158)

6.2 Bullying

Bullying is repeated unreasonable behaviour directed toward an employee, or group of employees, that creates a risk to OH&S (physical or psychological). Bullying can be subtle and it may be difficult to immediately recognise. Bullying may be an accumulation of small incidents over long periods.

Bullying that is motivated by a characteristic protected by law may be discrimination and unlawful under anti-discrimination law. The behaviour does not have to be repeated to be discrimination, it may be a one-off event.

If found that an incident of bullying occurred, LMW will consider this as a serious breach of conduct, which may lead to disciplinary action, suspension, potential termination of employment and reporting to the relevant authorities.

6.2.1 Repeated Behaviour:

Persistent in nature and can include a range of behaviours/actions over time.

6.2.2 Unreasonable Behaviour:

That a reasonable person, having regard for the circumstances, would see as unreasonable, which may include victimisation, intimidation, or potential threat toward another person.

6.2.3 Aggressive Behaviour:

Yelling, potentially violent, threatening, stalking or physical assault. This may be considered criminal in nature and may result in a report to relevant authorities.

6.2.4 What's not considered bullying?

6.2.4.1 *Single Incidents:* While this may be behaviours not consistent with LMW's Organisational Values, this does not constitute bullying. However, in accordance with LMW's positive duty obligations will still be addressed and may result in disciplinary action or active performance management in accordance with clause 25.1 of LMW's EA.

6.2.4.2 *Workplace conflict*: Constructive conflict is not considered bullying as constructive debates and variation in opinion can represent diversity of thought and can be beneficial to business outcomes (i.e. constructive discussions about key business decisions). Where this occurs in line with LMW's Organisational Values it will be considered acceptable behaviour.

6.2.4.3 *Reasonable Management Action* : People Leaders are required to take reasonable action to effectively manage the performance of their direct and indirect reports. Reasonable actions such as rostering, setting performance goals and deadlines, providing constructive feedback regarding performance and raising concern regarding poor performance and/or behaviours does not constitute bullying. Further, initiating performance management and issuing discipline action including formal warnings and termination of employment does not constitute bullying.

6.2.4.4 *Feedback*: Constructive feedback of a person's behaviours and performance delivered from a people leader, manager, colleague, contractor, or customer/client is not considered as bullying. In the event that the same feedback is given multiple times and positive improvement is not achieved the employee's direct manager should commence formal performance management.

However, feedback about character, ability, personality, or any immutable attributes defined under the Australian Human Rights, Equal Opportunity, Sex Discrimination, or any other relevant acts can be considered as bullying or discriminatory.

6.3 Sexual Harassment.

Sexual harassment can take many forms and can be perpetrated by anyone, including employees, contractors, vendors, clients, and customers. It can be communicated in writing, verbally or may be physical in nature and is unwanted. The Intent by the alleged perpetrator is not relevant any behaviour defined as sexual harassment is unlawful behaviour and must be treated as serious misconduct in accordance with the Sex Discrimination Act.

6.3.1 Forms of Sexual Harassment:

- Unwelcomed comments or contact, which includes sexual in nature.
- Suggestive behaviour, comments, or jokes, which includes sexual in nature and can be direct or indirect.
- Reference to abilities at work or performance/recognition/promotion outcome relating to the sex of the employee.
- Unwelcomed touching.
- Intrusive questions or comments about persons private life or appearance.
- Repeated requests for dates, single unwelcomed requests for sex and displays/declarations of affections.
- Explicit emails, messages, or posts on social media.
- Displaying of offensive photos, calendars, screen savers or objects.
- Sexual assault, exposure, or stalking, which are criminal offences.

Conduct in this nature when un-consensual and unwelcomed does constitute sexual harassment. The victim may not object to the behaviour at the time of incident, this doesn't mean they are consenting to the act. The act may be made indirectly about the employee and they become aware as a result of a vexatious rumour. An employee does not have to make a formal complaint for LMW to take action to investigate the incident. LMW are obligated under the Sex Discrimination Act to take action and investigate upon state of knowledge or an alleged account of sexual harassment.

6.3.2 Sexual Assault:

Sexual assault is unwanted and forced sexual activity without a person's consent, this occurs when the victim:

- is touched inappropriately, this includes groping.

- is forced to commit an indecent act, this doesn't include sexual activity but can include forcing the victim to touch the perpetrator.
- is forced to witness an indecent act, sexual in nature.
- is physically assaulted by the perpetrator, which is sexual in nature.

In the event that any behaviour deemed to be sexual assault is confirmed, LMW will report the act to the authorities as this is considered a crime under the Crimes Act. LMW will commit to supporting victim/s and witnesses in the event this occurs, please refer to 6.14.

6.4 Discrimination.

Discrimination is an act or behaviour against an individual or group of people that results in disadvantage because they have a certain feature or attribute. A person's features and attributes are:

- race
- colour
- sex
- sexual orientation
- breastfeeding
- gender identity
- intersex status
- age
- physical or mental disability
- marital status
- family or carer responsibilities
- pregnancy
- religion
- political opinion
- national extraction (such as their heritage, their citizenship, or where they or their parents were born)
- social origin (such as their social class or group, language and customs)
- subjection to family and domestic violence
- personal association with a person or people identified by reference to any of these attributes.

6.4.1 Forms of discrimination?

Discrimination can happen at different points during the employment relationship including;

- when recruiting and selecting staff
- in the terms, conditions and benefits offered as part of employment
- who is considered or selected for training and the sort of training offered
- who is considered or selected for transfer or promotion
- who is considered and selected for retrenchment or dismissal.

6.4.2 What isn't discrimination?

There are certain times that behaviours and acts are not considered as discriminatory, which may include:

- asking not to wear religious clothing for health and safety reasons
- hair styles and facial hair that could impact OH&S
- not hiring due to certain types of visa status that are not permitted by Australian law
- feedback about behaviour and performance.

6.5 Location:

Bullying, harassment and discrimination can occur anywhere, and does not have to occur in the workplace to be deemed a breach of this policy. If the act is connected to work it is considered workplace bullying, harassment or discrimination and will be managed in accordance with this policy and LMW's Bullying, Harassment and Discrimination Procedure (CTD/ 004158).

This also extends to the online environment, which includes personal social medias, SMS, emails, MS Teams chat, and all forms of digital communication.

6.6 Registration of complaint.

All employees who are involved in or witness an incident, act, or behaviour that may constitute bullying, harassment or discrimination are obligated to report this and provide sufficient evidence to support LMW Senior Leadership to thoroughly investigate. To make a report refer to LMW's Bullying Harassment and Discrimination Procedure (CTD/004158).

6.7 Confidentiality.

All parties that are involved in making a report or making a complaint regarding bullying, harassment or discrimination are required to exercise the upmost confidentiality in line with LMW's Confidentiality Agreement and the VPSC Code of Conduct.

6.8 Investigation.

LMW is committed to treating all involved parties with empathy, equality, without bias, and they will be presumed innocent during the investigation.

LMW will conduct a thorough investigation and will apply confidentiality throughout the entire process. All parties may be required to provide a truthful witness statement. Failure to provide truthful testimony upon reasonable request or complying to confidentiality may be considered a breach of this policy. Depending on the severity of the complaint, the alleged perpetrator may be suspended during this process.

7.0 Supporting Documentation

Doc ID	Title
CTD/003636	Managing Aggressive Behaviour Procedure
CTD/004158	Managing Bullying & Harassment and Discrimination Procedure
2022/000961	Lower Murray Urban and Rural Water Corporation Enterprise Agreement

8.0 Roles & Responsibilities

Position	Responsibility
T&PE (People Team)	<ul style="list-style-type: none"> Responsible for investigating all complaints and determine the outcome of the incident. Responsibility for ensuring relevant training and guidance is available to all employees to enable compliance with this policy. Keep accurate records of all complaints, incidents or acts reported. Keep accurate records of training and guidance provided to employees including managers to allow compliance with this policy.
All LMW Employees/Contractors	<ul style="list-style-type: none"> To comply with this policy and treat all colleagues and customers with respect and professionalism. To refrain from engaging in discriminatory or harassing behaviour; and

	<ul style="list-style-type: none"> To report incidents, acts or behaviours and provide truthful witness statements to enable thorough investigation.
Manager/People Leader/General Manager	<ul style="list-style-type: none"> To understand and demonstrate commitment to the principles and legislation relating to this policy and active participation in the positive duty by applying it in the workplace. To conduct a thorough induction of all employees to ensure understanding of their obligations under this policy and associated procedures. To report any known incidents, acts or behaviours which may constitute bullying, harassment or discrimination. To work collaboratively with the T&PE team in the investigation of any incidents, acts or behaviours and demonstrate proactive management of perpetrators. Sets an example by their own behaviour.

9.0 Document History & Review

It is the responsibility of the Custodian of this policy to ensure it is reviewed as per the review due date listed in the table below and the controlled document metadata within the Records Management System (RMS).

Version	Date Approved	Review Due Date	Review Notes
A	April 2021	April 2024	Inclusion of Discrimination and Title changed
B	April 2021	April 2024	Reviewed and updated to fit new policy format.
C	Jan 2024	Jan 2027	

For users of this policy, please alert the Custodian to the need for review if any amendments are required to this policy before the review due date. Only Custodians or their delegates may make amendments, and these must be authorised by the Approver before distribution to LMW.

See the controlled document "Notes" in the RMS for amendments made during reviews.

Custodian	Approver
Senior Manager Talent & People Experience	General Manager People and Customers
Subject Matter Experts	Endorsed By
HR Generalist	People Team Safety Team OHS Committee

10.0 Location of Document

- Records Management System
- Intranet
- Internet