

Code of conduct

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Queensland Curriculum
& Assessment Authority

For all Queensland schools

The QCE Handbook

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Acknowledgments

This document was developed in consultation with the staff of the Queensland Curriculum & Assessment Authority (QCAA). Acknowledgment is made of other public sector codes of conduct operating in Australia.

Introduction

The QCAA code of conduct outlines our responsibilities and obligations under the *Public Sector Ethics Act 1994* as employees of the QCAA, a public sector organisation.

The *Public Sector Ethics Act 1994* sets out fundamental principles of ethics for all organisations and employees in the Queensland public sector. This Act provides sector organisations and their employees with a structure to assist in ethical decision making and to establish standards for workplace conduct.

The Act declares that the following principles are fundamental to good public administration. These form the framework for our code of conduct:

1. respect for the law and system of government
2. respect for persons
3. integrity
4. diligence
5. economy and efficiency.

Specifically, the code of conduct provides standards of official conduct, workplace behaviour and use of resources to ensure that employees are aware of their ethical obligations based upon the principles above. It does not, however, override existing legislation.

The code applies to QCAA permanent, temporary and casual employees, including employees on leave. The code also applies to seconded employees.

Managers' responsibilities

- Abide by and uphold the code of conduct and ethics principles.
- Understand and practise the principles of natural justice.
- Consider the effect of all managerial decisions on all stakeholders.
- Provide employees with reasonable access to the code of conduct.
- Provide adequate education and training to employees in the use and application of the code of conduct.

Employees' responsibilities

- Participate in education and training about the code of conduct.
- Understand the code of conduct and ethics principles.
- Abide by and uphold the code of conduct and ethics principles.

Application of the code

What is a breach of the code of conduct?

In general terms, a breach occurs when an employee of the QCAA is found to have not complied with an element of the code of conduct. This may include a breach of a particular obligation or standard or of the underlying ethics principle. In all cases, the nature of the breach must be clearly communicated to the respondent.

What happens if a breach occurs

If an officer of the QCAA has reason to believe there has been a breach of the code, that officer should report the issue to their supervisor or to the supervisor of the officer against whom the allegations are being made (the respondent). An investigating officer (in most cases the respondent's supervisor) shall talk to the people involved, including the respondent, any witnesses and other stakeholders. During this process, the investigating officer must ensure the application of procedural fairness or natural justice. The principles of procedural fairness require that people whose interests will be adversely affected by a decision be given an opportunity to be heard, and that decision makers act without bias or self-interest, and base their decisions on evidence (refer section 4.2 of this code).

The application of the principles of procedural fairness may vary, depending on the circumstances of the particular case. In its fullest application, procedural fairness requires that:

- People against whom an adverse decision may be made must be informed of any allegations against them in as much detail as possible.
- Wherever possible, people must be provided with an opportunity to put their case, and to hear the case against them, whether at an oral hearing or otherwise.
- If a decision is to be made between competing interests, all parties to a matter must be heard and all arguments considered.
- No person judges their own case or a case in which they have a direct interest.
- Decision makers must act fairly and without bias.

Consistent with the requirements of administrative law, the standard of proof for determining whether a breach of the code of conduct has occurred is on the balance of probabilities. This means that the decision maker must be satisfied that a breach of the code is more probable than not.

The officer who is determining whether or not a breach has occurred should ordinarily consider only the incident(s) in question to make that determination. In some cases, however, evidence of prior 'similar facts', which shows a particular tendency, may be relevant to a determination about

the incident(s) in question. The employee should be notified of plans to consider any past conduct.

When deciding on an appropriate sanction, a decision maker may consider past behaviour, and in particular whether previous warnings, counselling or sanctions have relevance. For example, if repeated counselling has not changed the employee's conduct, a more serious sanction may be appropriate. The employee should be notified if decision makers plan to take into account any past conduct (both satisfactory and unsatisfactory) when deciding a sanction. In any event, the rules of procedural fairness would require that, in imposing a sanction, a statement of reasons should be provided to the employee.

Ethics principle 1: Respect for the law and system of government

As an employee of QCAA, you have an obligation to:

- exercise powers lawfully
- carry out lawful instructions
- respect the spirit and the letter of the law
- be responsive to the mandate of the government of the day
- provide information and assistance to a parliamentary committee, when authorised to do so by a government minister
- act in the public interest and in accordance with government policies and objectives
- uphold the laws of the State and Commonwealth as per s. 7(1) of the *Public Sector Ethics Act 1994*.

Lawful and unlawful instructions

While at work you are expected to comply with all reasonable, lawful instructions related to your work.

If you consider an instruction unreasonable or unlawful, you should tell this to the person issuing the instruction, giving your reasons for concern and allowing a reasonable opportunity for the person to respond. If, after the response, you are still concerned or object to the instruction, you may seek advice at the next management level. Alternatively, you can refer the matter to an assistant director, deputy director or the director for resolution, or follow the grievance resolution procedure.

Managers should be open to constructive questions regarding their instructions and have a responsibility to respond appropriately.

In the interim you should carry out the instruction unless there is a danger to a person's health or safety, a suspected crime is in progress or has occurred, or there is evidence of official misconduct. In such cases, you should notify any QCAA supervisor, manager or other authority where appropriate.

At times, you may not personally agree with all decisions made by your manager. You may have personal views that differ from those of the elected government or the QCAA. Such views should

not interfere or be seen to interfere with the performance of your duties. Your view must not take precedence over QCAA or government policy and decisions.

Employees must also fulfil their obligations under legislation such as the *Workplace Health and Safety Act 1995* and *Anti-Discrimination Act 1991*.

Disclosure of fraud, corrupt conduct, or maladministration

You must disclose to an appropriate authority (e.g. your manager, assistant director, deputy director, director, police or the Crime and Misconduct Commission) suspected or known fraud, corrupt conduct or maladministration by another public sector employee. You will be protected by the *Whistleblowers Protection Act 1994* regarding public interest disclosures, provided that the disclosures are made in the appropriate way. Employees making false or vexatious allegations will not be protected by the Act and such action may result in disciplinary action.

Ethics principle 2: Respect for persons

As an employee of the QCAA, you have an obligation to:

- avoid patronage and favouritism, and act fairly and equitably
- be responsive to the reasonable demands of the public, and other officials
- be tolerant of other people's views which may differ from your own
- ensure that your professional behaviour contributes to a safe and supportive working environment.

Respect for the dignity, rights and views of others

The individuals who make up our organisation and our customers come from diverse backgrounds and hold a variety of views and expectations. As an employee of the QCAA, you should maintain open and honest communication and treat your colleagues, clients and the public with fairness, equity, sensitivity and consistency. While at work, you are expected to be professional in your dealings with clients and colleagues, and ensure that their rights are observed and that their views are taken into consideration.

Protecting students from harm

The QCAA undertakes a range of activities within the school environment, including district office activities, workshops and information sessions. Though it is recognised that these services do not require employees to engage with students in an unsupervised environment, it is important that all officers understand and observe the following QCAA policy requirements to ensure the safety of students.

- All students have a fundamental right to a safe and trusted physical and emotional environment that is free from harm.
- Employees must not place themselves in a position where they have unsupervised, in person contact with a student.

- Employees must actively seek to prevent harm to students and to support students who have been harmed.
- Employees must not impose corporal punishment on a student in the course of their professional duties.
- Employees must not engage in sexual misconduct with a student. Sexual misconduct is defined as, during or outside school hours:
 - conduct towards any person that would constitute a criminal offence of a sexual nature
 - conduct that is sexual harassment as defined in s. 119 of the *Anti-Discrimination Act 1991*
 - any other sexual conduct by a school-based employee directed towards or involving:
 - any student under the age of 18 years where a professional relationship exists
 - any student attending the school/s where the employee works
 - in the case of employees employed under the Teachers' Award – State, any student under the age of 18 years attending any Queensland state school or Queensland secondary college
 - a student aged 18 years or older which could reasonably be regarded as creating an apparent or actual conflict of interest between the employee's private interests and their professional duties.

Sexual conduct is any behaviour that might reasonably be interpreted as being designed or intended to arouse or gratify sexual desires.

The following behaviour would also constitute either misconduct or sexual misconduct:

- unwarranted and inappropriate touching of students
- suggestive remarks or actions of a sexual nature
- sexual exhibitionism
- obscene gestures, language, jokes containing sexual references, or deliberately exposing students to the sexual behaviour of others in any form, other than in the case of prescribed curriculum material in which sexual themes are contextual.

Employees must discourage and reject any advances of a sexual nature initiated by a student with whom they have a professional relationship, or where a prohibition on sexual conduct applies.

Employees must not engage in behaviour that raises a reasonable suspicion that they have engaged in, or will engage in, sexual misconduct, or that the standards applying to the professional employee–student relationship has or will be breached. Employees' interactions with students must be, and must be seen to be, professional at all times.

Examples of behaviour that raise reasonable suspicion that the standards applying to the professional employee–student relationship have or will be breached include:

- flirtatious behaviour directed at a student
- dating a student
- spending significant time alone with a student other than to perform one's professional duties, or without other reasonable explanation
- expressing romantic feelings towards a student in written or other form.

Procedural fairness (natural justice)

Natural justice is the observance of fair procedures. The essence of natural justice is that justice should not only be done, but should be seen to be done.

All employees are entitled to benefit from the principles of natural justice. Natural justice requires that an objective decision maker reaches a fair decision. It ensures that decisions affecting an individual's rights and interests are reached only after the individual has been made aware of the allegations made against them. It also ensures that individuals have had the opportunity to present their claims in relation to the allegations and the proposed decisions affecting them.

Natural justice also requires that the decision maker have no personal interest in the matter, and so care should be exercised to exclude real or perceived bias from the process.

Personal behaviour in the workplace

Your behaviour, language and standard of dress at work reflect the respect you have for yourself and for others. You should, therefore, act, dress and communicate appropriately in your workplace. Some examples of appropriate behaviour include:

- positively acknowledging achievements and contributions of other employees
- taking into consideration the impact of decisions on the wellbeing of others
- refraining from acting in a way that would unfairly harm the reputation and career prospects of other employees
- respecting individuals' rights to privacy and protecting the confidentiality of personal information
- promoting and sustaining a safe and supportive environment free from intimidation, bullying and unlawful discrimination and harassment
- maintaining a personal presentation at work that is clean, tidy and inoffensive to others.

Ethics principle 3: Integrity

As an employee of the QCAA, you have an obligation to:

- use the powers, influence, and resources available to your professional position appropriately
- maintain proper confidentiality of sensitive and official information
- declare private interests where they might present a conflict of interest with public duties
- refrain from seeking or accepting gifts or benefits for private gain in connection with official duties (other than incidental items of a token or nominal value).

Conflict of interest

As an employee you hold a position of trust. In fulfilling your role, you are required to maintain and enhance public confidence in the integrity of the services and products provided by the QCAA. This confidence is put at risk if there is an apparent conflict between your private interests and your duty.

A conflict exists when your private interests interfere or conflict with, or have the potential to interfere or conflict with, the proper performance of your official duties. If you or your immediate family have a personal interest that may cause a conflict or an apparent conflict, you must declare this in writing to your manager. If you are unsure whether your circumstances create a conflict of interest you should discuss the issue with your supervisor.

Example: Conflict between private interests and public duty/misuse of public resources

An employee uses his departmental phone number on his private business card and receives regular private business calls during his work time. The employee spends extended periods of work time responding to his private business interests to the detriment of their work.

Outside employment

Engaging in outside employment may cause an actual or apparent conflict of interest to exist. If your outside employment may cause a conflict of interest, you must formally write to your manager seeking approval to engage in outside employment.

If engaging in outside employment, the following requirements must be met:

- Your outside employment must not be performed during your normal hours of duty as a paid QCAA employee and must not affect your ability to perform your official duties.
- QCAA resources and facilities must not be used for your outside employment. This includes intellectual property.
- Your outside employment must not be seen to be 'in competition with' the QCAA.
- Your outside employment must not involve work which is currently undertaken by the QCAA or which the QCAA has previously stated it will be undertaking in the future. This is particularly pertinent if your outside employment involves providing consultancy, advice or technical services.
- As an employee of the QCAA, you cannot be employed concurrently as an external contractor to the QCAA.
- The outside employment must be lawful and not bring the QCAA into disrepute.

Declaration and registration of personal interest

In making a decision that may entail a conflict of interest, you must declare in writing to your manager any personal or immediate family interests that are significant and relevant to that decision. You must also declare any apparent conflict of interest. This applies particularly to staff involved in making decisions affecting contracting, tendering or regulatory functions.

Conflict between professional codes of conduct and this code

If the QCAA code of conduct conflicts with the obligations or conventions of your professional code, your primary obligation is to the QCAA code. If, however, you recognise a discrepancy between this code and your professional code, you should discuss this with your manager as soon as possible and, if necessary, the professional body.

Gifts and benefits

The use of your official position to seek, encourage the offer of, or accept any form of personal benefit or gift in connection with your duties may compromise, or be seen to compromise, your capacity to perform your duties impartially. Benefits may include money, property, shares, gifts, hospitality, travel, accommodation, entertainment or favours.

Although it may not be your intention, the receipt of a gift has the potential to compromise your integrity and therefore that of the QCAA. If you receive an offer of a gift, good practice would require you to report it to your manager regardless of its value.

Gifts with a market value exceeding \$100 are considered reportable gifts and must be declared to your manager. Multiple gifts from the same donor in a financial year where the accumulated value exceeds a nominal value should also be declared to your manager.

You may still be able to accept a reportable gift if you can demonstrate that there is no expectation of future benefit to the giver.

The QCAA purchasing policy requires all personnel involved in the procurement process to refrain from accepting gifts from suppliers or potential suppliers. Please refer to the QCAA *Financial Management Practices Manual* for more information on reportable gifts.

Criminal charges and convictions

You are required to notify your manager if you have been charged or convicted of an indictable offence.

If you have been charged with an indictable offence, the director will decide whether the charge directly affects the performance of your duties. This decision is to ensure the effective operation of the QCAA, not to consider the guilt or innocence of the employee.

Disclosure of official information

As an employee of the QCAA, you may have access to sensitive information relating to the business activities of the QCAA. This information may include student-related data or achievement levels, or internal documents such as policies, procedures, security protocols relating to QCAA activities (e.g. testing programs) and meeting records.

You may disclose official information or documents acquired through your work only if it is:

- in the normal course of your duty to do so
- required by law
- authorised by your manager.

If you are unsure whether disclosure is appropriate, discuss your concerns with your manager before you disclose any information.

Example: Inappropriate disclosure of official information

A relative is completing the senior phase of their education at a Queensland school, and they are planning an extended holiday before the date when the results are released. You agree to access the data before its official release, and phone your relative with their OP.

Confidentiality

You have a responsibility to maintain the confidentiality of information that is of a personal, commercial, political or strategic nature and that is not available to the general public. This information may include student-related data or achievement levels, or internal documents such as policies, procedures, security protocols relating to QCAA activities (e.g. testing programs) and meeting records. You should respect the rights of the government and the provider of the information in keeping this information and knowledge confidential. You may, however, supply at any time information that is generally available to the public. For further information on your responsibilities relating to the use and disclosure of information and information resources please refer to the policy section of the QCAA intranet.

Public comment

Public comment includes public speaking engagements, comments on radio and television, and the expression of views in letters to newspapers or in books, journals or notices.

It is inappropriate for an employee to provide personal opinions in relation to matters of public policy when attending public functions in an official capacity.

You may participate in public discussion of government and/or QCAA policy or administration in an official capacity only if the provision of such information is part of your normal duties, or you have been authorised by the director to do so.

Political, professional, trade union and voluntary association activity

You have a right to take part in political, professional, interest group, voluntary association and trade union activity. This must, however, be achieved without breaching your obligations as a QCAA employee.

If you are an elected workplace representative or official of a trade union, professional association or voluntary organisation, you are not required to obtain official permission before publicly expressing the body's views on a matter. However, you must make it explicit that your comments are made on behalf of the body that you are representing, not as an employee of the QCAA.

Intellectual property, copyright and moral rights

Intellectual property includes inventions, original works, the results of research, or a product development that can be protected. Ownership is determined by considering the circumstances in which the intellectual property was conceived, researched and developed. The ownership of intellectual property generated by employees rests with the QCAA or the State of Queensland. The employee has no personal claim to the intellectual property.

An employee undertaking private study may be granted permission by the director to write about work of the QCAA and present examples of their individual work as part of their course requirements. Seek advice from your manager, assistant director, deputy director or director if you are unsure about copyright or intellectual property issues.

Example: Possible intellectual property, copyright and moral rights issue

As an employee of the QCAA you are involved in the development of syllabus documents for use by Queensland schools. You are also a part-time lecturer at a university and as a part of your work there, you decide to include in one of your lectures information about the process used by the QCAA to develop syllabus documents.

Referee reports, selection reports, performance reports and testimonials

It is your responsibility to complete such reports honestly and on the basis that the information contained can be substantiated. You must take care not to make false or derogatory statements about an individual.

You may accept to write a personal testimonial for an employee upon their request. However, you are not permitted to use QCAA letterhead as the testimonial is considered to be your personal comments and not those of the QCAA. Official references (i.e. on QCAA letterhead) can only be obtained with the approval of an assistant director, deputy director or director.

Attendance and leave requirements

It is your responsibility to complete attendance and leave records honestly and accurately. When taking leave, you must complete the leave form, supplying true and accurate information and any necessary supporting documentation, and have the form endorsed by your manager. Absence from work without approval and without reasonable excuse could lead to disciplinary action under s. 187 'Grounds for discipline' of the *Public Service Act 2008*.

Ethics principle 4: Diligence

As an employee of the QCAA, you have an obligation to:

- perform your duties to the best of your ability
- carry out your duties in a professional, competent and conscientious manner, always seeking to improve your own performance and the QCAA's in the delivery of services to our clients
- exercise your obligations in relation to the health and safety of yourself and others
- act honestly and in good faith in providing advice that is honest, impartial and comprehensive, irrespective of your personal views on a matter.

If your role requires you to manage or supervise staff, in addition to the above responsibilities you must also ensure that:

- You develop a positive working environment in which all staff can contribute to the ongoing development of the QCAA.
- The performance and work outputs of your team are focused on delivering outcomes consistent with the goals of the QCAA.
- Your staff receive ongoing formal and informal feedback on their performance.
- Appropriate systems are in place to monitor and effectively allocate tasks between your staff members.

- You establish appropriate systems within your area of responsibility to support effective communication, and where appropriate involve staff in decision making.
- You take appropriate action if a breach of the code of conduct has occurred.

Performance of duties

The QCAA encourages its employees to have a high standard of performance and a focus on client service. You are expected to exercise due care, particularly if members of the public or clients rely on the information or advice provided. It is also expected that you act responsibly and that you be accountable for your conduct and the decisions you make in your official capacity.

Provision of accurate and complete information

You are required to provide advice that is honest, impartial, comprehensive and consistent with QCAA policies. When providing advice or information, ensure that it is accurate, complete and delivered in a timely manner. If you are unable to provide information that satisfies these requirements, you should discuss it with your manager.

Use of intoxicants

You have a duty to ensure that your personal conduct in the workplace and elsewhere does not adversely affect the work performance, safety or integrity of yourself, your colleagues, your clients or the QCAA. Excessive use, or abuse, of alcohol, medication, drugs, or other intoxicants may impair your ability to uphold your duty of care and may lead to disciplinary action under s. 187 of the *Public Service Act 2008*.

You will not be permitted to report for duty if your manager considers that you are unable to perform your duties effectively and safely within the work environment.

Employees are able to use the Employee Assistance Program (EAP) for confidential assistance in managing excessive use or abuse of intoxicants. Contact Human Resources for a confidential discussion in accessing the EAP or see the Human Resources section of the QCAA intranet.

Private use of communication systems

Communication systems include phones, faxes, email and the internet. These communication systems are available for business use. Occasional private use is permitted but should be limited in frequency and length of use, should not interfere with your work, and must not be connected with your outside employment or private business interests. The willing receipt, storage or distribution of illicit, unethical, offensive, malicious or inappropriate material is prohibited.

Refer to the QCAA's ICT policies for more information on acceptable and unacceptable use of communication systems. Breach of this policy may result in disciplinary action being taken, including dismissal.

Leave of absence

All leave (such as sick, recreational, core-time, maternity, long service, study, special) must be authorised by the appropriate delegate.

Ethics principle 5: Economy and efficiency

As an employee of the QCAA, you have an obligation to:

- use public resources efficiently and effectively for official purposes
- make decisions relating to the use of public resources that are reasonable, are correctly authorised and can withstand public scrutiny
- Treat government and QCAA property with due care and ensure it is secured against theft and misuse.

Use of public resources

Public resources include property, facilities, material, equipment, financial resources, human resources, knowledge, intellectual property and official information. Resources are provided to the QCAA for the provision of services to our clients. All employees have a responsibility to ensure that resources are used to maximise benefits to our clients and the QCAA.

You should be economical and avoid waste and extravagance in your use of resources such as office facilities and equipment, including the use of motor vehicles.

Employees need to be mindful of the most economical means of achieving results. In particular, employees should consider the most effective options when making travel and hospitality arrangements.

Use of government property and facilities for private purposes

You may use QCAA resources in your personal time for work-related purposes only. If you wish to use QCAA property and facilities for personal use, you must obtain approval from your manager.

To use QCAA equipment off-site, you must seek approval from the appropriate delegate, preferably in writing.

Glossary of terms

Conflict of interest — An apparent conflict of interest exists when an employee's private interests have the potential to interfere with the proper performance of their work duties. An actual conflict of interest exists when a reasonable bystander, in possession of the relevant facts, would conclude that the employee's private interests are likely to interfere with the proper performance of their work duties. An apparent or actual conflict of interests must be identified, declared and avoided or resolved in favour of the public interest.

Duty of care — A duty to do everything reasonably practicable to protect others from harm.

Employee — In this code means permanent, temporary, casual or contract employees of the department.

Gift — Includes entertainment, hospitality, travel or other benefit or an item of property, whether of a personal nature or otherwise, for example ornate and precision display items, clocks, furniture, figurines, works of art, jewellery, personal items containing precious metals or stones.

Harm to a student — Any detrimental effect of a significant nature on a student's physical, psychological or emotional wellbeing by any cause, other than confirmed accidental harm not involving negligence or misconduct. Harm to a student includes minor harm that is cumulative in nature that would result in a detrimental effect of a significant nature to the student if allowed to continue. Harm can be caused by, for example:

- physical, psychological or emotional abuse or neglect
- sexual abuse or exploitation
- domestic or family violence
- student bullying
- self harm.

Intellectual property — Includes documents, publications, manuscripts, audiovisual presentations, inventions, original research, products and any other materials recorded in any form that are developed for departmental or government use in the course of your work duties.

Maladministration — An administrative action that is unlawful, arbitrary, unjust, oppressive, improperly discriminatory or taken for an improper purpose.

Misconduct — Disgraceful or improper conduct in an official capacity or disgraceful or improper conduct in a private capacity that reflects seriously and adversely on the public service.

Official information — Information contained within departmental records or imparted in an official capacity.

Professional relationship — A fiduciary relationship in which trust and confidence are necessarily reposed by one party, investing in the other party a corresponding amount of power. A fiduciary relationship exists where, as a result of one person's relationship to another, the former is bound to exercise rights and powers in good faith and for the benefit of the latter.

Sexual harassment — Happens if a person:

- a. subjects another person to an unsolicited act of physical intimacy
- b. makes an unsolicited demand or request (whether directly or by implication) for sexual favours from the other person
- c. makes a remark with sexual connotations relating to the other person
- d. engages in any other unwelcome conduct of a sexual nature in relation to the other person

- e. and the person engaging in the conduct described in paragraphs a, b, c or d does so —
- f. with the intention of offending, humiliating or intimidating the other person, or
- g. in circumstances where a reasonable person would have anticipated the possibility that the other person would be offended, humiliated or intimidated by the conduct.

Sexual misconduct — Sexual misconduct is, during or outside school hours:

- conduct towards any person that would constitute a criminal offence of a sexual nature or
- conduct that is sexual harassment as defined in s. 119 of the *Anti-Discrimination Act 1991* or
- any other sexual conduct by a school-based employee directed towards or involving:
 - any student under the age of 18 years where a professional relationship exists
 - any student attending the school/s where the employee works
 - in the case of employees under the Teachers' Award – State, any student under the age of 18 years attending any Queensland state school or Queensland secondary college
 - a student aged 18 years or older which could reasonably be regarded as creating an apparent or actual conflict of interest between the employee's private interests and their professional duties.

Sexual conduct is any behaviour that might reasonably be interpreted as being designed or intended to arouse or gratify sexual desires.

Vexatious allegations — A written or verbal report of alleged improper conduct made to an authority intending the report to be acted upon, where there is a demonstrable absence of reasonable grounds for suspecting the improper conduct, and the report is made to cause distress.

Workplace harassment — is repeated behaviour by an employee, other than behaviour that is sexual harassment, that:

- a. is directed at an individual worker or group of workers
- b. is offensive, intimidating, humiliating or threatening
- c. is unwelcome and unsolicited and
- d. a reasonable person would consider to be offensive, intimidating, humiliating or threatening for the individual worker or group of workers in all the circumstances.