



~~Sexual~~



~~Harassment~~

At Law Squared we take a zero tolerance on sexual harassment, and believe all employers have a moral, ethical, and legal obligation to ensure all employees feel safe in the workplace – to assist with this, we have created a Sexual Harassment Policy.



# Sexual Harassment Policy

## 1. Introduction

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[insert Company name] (ACN XXX XXX XXX) ([insert Business name]) is strongly committed to ensuring a safe working environment for its employees, Board members, directors, contractors, volunteers and visitors (**team members**).

All team members deserve the opportunity to come to work and feel, and be, safe.

If any team member is in immediate need of protection or emergency assistance, they should contact 000 as soon as possible.

## 2. Purpose

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The purpose of this Policy is to:

- eradicate sexual harassment in all forms;
- create a positive and inclusive workplace;
- affirm [insert Business name]'s commitment to promoting a safe working environment that is free from sexual harassment;
- support team members to report sexual harassment;
- ensure compliance with [insert Business name]'s legal obligations.

## 3. Scope

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This Policy applies to all team members of [insert Business name].

## 4. Legislation

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Under State and Federal legislation, sexual harassment is unlawful and strictly prohibited. Relevant Federal legislation includes the following:

- *Fair Work Act 2009* (Cth) (**FW Act**) and the *Fair Work Regulations 2009* (Cth);
- *Sex Discrimination Act 1984* (Cth); and
- *Sex Discrimination and Fair Work (Respect at Work) Amendment Act 2021* (Cth) (**Respect at Work Amendment Act**).



Each State and Territory also places additional legislative requirements that are unique to that State or Territory, such as the *Equal Opportunity Act 2010* (Vic) and the *Occupational Health and Safety Act 2004* (Vic) in Victoria.

## 5. Definitions

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“**[insert Business name]’s environment**” means any physical or virtual place made available or authorised by the **[insert Business name]’s** directors for official use in connection with **[insert Business name]’s** activities, including:

- **[insert Business name]’s** offices (and any offsite locations used in **[insert Business name]’s** activities); and
- online environments (including **[insert Business name]’s** website, email, LinkedIn profile and Facebook profile etc.).

“**Sexual harassment**” means any unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated or intimidated, and where that reaction is reasonable in the circumstances. Example of sexual harassment include, but are not limited to:

- inappropriate physical contact, such as unwelcome touching;
- staring or leering;
- unnecessary familiarity, such as deliberately brushing up against you or unwelcome touching;
- suggestive comments or jokes;
- insults or taunts of a sexual nature;
- intrusive questions or statements about your private life;
- displaying posters, magazines or screen savers of a sexual nature;
- sending sexually explicit emails or text messages;
- inappropriate advances on social networking sites;
- accessing sexually explicit internet sites;
- requests for sex or repeated unwanted requests to go out on dates; and
- behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

Behaviour that is consensual and based on mutual attraction, friendship and respect is not sexual harassment.

NB: An individual that causes, instructs, induces, aids or permits sexual harassment to occur can also be found to have engaged in inappropriate behaviour and also be found liable.



NBB: The Respect at Work Amendment Act recently amended the FW Act to further support that sexual harassment can constitute serious misconduct and a valid reason for termination of employment without notice.

"Victimisation" means where someone subjects, or threatens to subject, another person to any form of detriment on the ground that the other person has:

- made a complaint of sexual harassment;
- provided information or documents regarding a complaint of sexual harassment;
- reasonably asserted their rights, or supported someone else's rights, under applicable anti-discrimination legislation; and / or
- made an allegation that a person has acted unlawfully under applicable anti-discrimination legislation.

Victimisation does not cover situations where it is proven that both the allegation was false and that the allegation was not made in good faith.

## 6. Roles and responsibilities

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It is the responsibility of the directors and all managers to ensure that:

- they set an example by their own behaviour;
- **[insert Business name]** has a culture that does not tolerate sexual harassment or victimisation;
- they take all reasonable and proportionate measures to eliminate sexual harassment in **[insert Business name]**'s environments;
- all team members understand and are committed to the principles and legislation relating to sexual harassment and applying it in **[insert Business name]**'s environments;
- all complaints regarding sexual harassment are treated confidentially, seriously and sympathetically, and are dealt with in a timely manner;
- immediate and appropriate steps are taken to minimise or eliminate sexual harassment in **[insert Business name]**'s environments;
- ongoing support, training and guidance is provided to all team members in relation to sexual harassment principles and practice to the workplace (both at induction and appropriately during the course of employment / engagement).

It is the responsibility of team members to:

- ensure they do not engage in any unlawful conduct towards other team members or others with whom they come into contact through their position at **[insert Business name]**;



- ensure they do not subject another person to a workplace environment (i.e. the [insert Business name]'s environments) that is hostile on the ground of sex;
- ensure they do not aid, abet or encourage other persons to engage in unlawful conduct;
- follow the complaint procedure in this Policy if they experience any unlawful conduct;
- report any unlawful conduct they see occurring to others in [insert Business name]'s environments in accordance with the complaint procedure in this Policy; and
- maintain confidentiality if they are involved in the complaint procedure.

## 7. Procedures

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If you feel that you have been subjected to any form of unlawful conduct contrary to laws or this Policy, you are strongly encouraged to speak up. [insert Business name] has a comprehensive complaint procedure for dealing with these issues, which is articulated below. The complaint procedure has numerous options available to suit the particular circumstances of each individual situation.

[insert Business name] treats all complaints seriously and in accordance with this Policy. We also reiterate that if any team member is in immediate need of protection or emergency assistance, they should contact 000 as soon as possible.

### 1. *Confront the issue*

Team members covered by this Policy who believe they are the subject of sexual harassment should take action at the earliest possible opportunity.

Where appropriate, the person should make the perceived perpetrator(s) aware that they find their behaviour offensive, unwelcome, unacceptable and that it needs to stop immediately.

NB: This approach is more suited to less serious allegations.

### 2. *Report the issue*

If the behaviour continues, or if the complainant feels unable to speak to the respondent(s) directly (or feels unsafe), they should speak to their immediate manager or the directors (if the conduct involves their manager).

The directors and the immediate manager will provide support in accordance with this Policy. The complainant's wishes will be taken into account when deciding on a course of action but will not be the determinative factor.

### 3. *Informal Intervention*

Under the informal complaint procedure, there are a broad range of options for addressing the complaint. The procedure used to address the issue will depend on the individual circumstances of the case. Possible options include:

- the relevant director or immediate manager discussing the issue with the person against whom the complaint is made; and/or
- the relevant director or immediate manager facilitating a meeting between the parties in an attempt to resolve the issue and move forward.

NB: The informal complaint procedure is more suited to less serious allegations that do not warrant disciplinary action being taken.

#### 4. *Formal complaints procedure*

The formal complaint procedure will generally involve a formal investigation of the complaint. Formal investigations may be conducted internally (i.e. by the immediate manager or the director or a person external to **[insert Business name]**), where appropriate and as determined by **[insert Business name]**.

An investigation involves collecting information about the complaint and then making a finding based on the available information as to whether or not the alleged behaviour occurred. Once a finding is made, the investigator will make recommendations about resolving the complaint.

If **[insert Business name]** considers it appropriate for the safe and efficient conduct of an investigation, team members may be required not to carry out their duties or attend **[insert Business name]** activities during an investigation. **[insert Business name]** may also provide alternative duties or tasks during an investigation.

The findings as to whether the allegations have occurred will be determined on the basis of the evidence, and on the balance of probabilities.

On the basis of the findings, possible outcomes of the investigation may include, but will not be limited to, any combination of the following:

- counselling;
- disciplinary action against the respondent (i.e. demotion, transfer, suspension, probation, termination or cessation of engagement);
- restriction from being associated with **[insert Business name]** activities;
- official warnings that are noted in the respondent's **[insert Business name]** file;
- formal apologies and undertaking that the behaviour will cease; and/or
- conciliation/mediation conducted by an impartial third party where the parties to the complaint agree to a mutually acceptable resolution.

On completion of the investigation, parties will be informed about the investigation findings and the outcome of the investigation.



## 8. Supports

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[insert Business name] strongly encourages any survivor or witness of sexual harassment to speak to their immediate manager or the directors, who can offer supports and assistance.

If you feel unsafe or need immediate help, we also confirm that you can:

- call 000;
- call Lifeline on 13 11 14;
- call 1800Respect (national sexual assault hotline) on 1800 737 732; and/or
- speak to your local GP.

## 9. Breach of this Policy

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Any breach of this Policy by a team member may result in counselling and/or disciplinary action, including up to termination of employment or cessation of engagement.

## 10. Review

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This document will be reviewed every two years or more frequently, if required, by the directors to ensure continued compliance.