

# SEXUAL HARASSMENT POLICY

Policy number	005	Version	001
Drafted by	Marc Littlewood	Approved by Board on	19 <sup>th</sup> June 2016
Responsible person	Marc Littlewood	Scheduled review date	19 <sup>th</sup> June 2019

## INTRODUCTION

Whyalla FM Public Broadcasting Association recognises the right of every employee and volunteer to be able to attend work and to perform their duties without being subjected to any form of sexual harassment.

It is the obligation and responsibility of every employee and volunteer to ensure that the workplace is free from sexual harassment.

Whyalla FM Public Broadcasting Association is fully committed to its obligation to eliminate sexual harassment in the workplace.

## PURPOSE

The purpose of this document is to outline Whyalla FM Public Broadcasting Association's position on sexual harassment and to document the process which is to be followed should any grievances arise.

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## DEFINITIONS

*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. Examples of sexual harassment include, but are not limited to,

- 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
- 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 based on mutual attraction, friendship and respect is not sexual harassment.

## POLICY

Whyalla FM Public Broadcasting Association will not tolerate sexual harassment under any circumstances. Responsibility lies with every Manager, Supervisor and employee/volunteer to ensure that sexual harassment does not occur.

Both federal and state Equal Employment Opportunity legislation provide that sexual harassment is unlawful and establish minimum standards of behaviour for all employees.

This policy applies to conduct that takes place in any work-related context, including conferences, work functions, social events and business trips.

No employee or volunteer at any level should subject any other employee, volunteer, customer or visitor to any form of sexual harassment.

A breach of this policy will result in disciplinary action, up to and including termination of employment.

Whyalla FM Public Broadcasting Association strongly encourages any employee who feels they have been sexually harassed to take immediate action. If an employee or volunteer feels comfortable in doing so, it is preferable to raise the issue with the person directly with a view to resolving the issue by discussion. The employee or volunteer should identify the harassing behaviour, explain that the behaviour is unwelcome and offensive and ask that the behaviour stops.

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Alternatively, or in addition, they may report the behaviour in accordance with the relevant procedure. Once a report is made the organisation has the right to determine how the report should be dealt with in accordance with its obligations and this policy.

Any reports of sexual harassment will be treated seriously and promptly with sensitivity. Such reports will be treated as completely confidential up to the point where a formal or informal complaint is lodged against a particular person, at which point that person must be notified under the rules of natural justice.

Complainants have the right to determine how to have a complaint treated, to have support or representation throughout the process, and the option to discontinue a complaint at any stage of the process.

The alleged harasser also has the right to have support or representation during any investigation, as well as the right to respond fully to any formal allegations made. There will be no presumptions of guilt and no determination made until a full investigation has been completed.

No employee or volunteer will be treated unfairly as a result of rejecting unwanted advances. Disciplinary action may be taken against anyone who victimises or retaliates against a person who has complained of sexual harassment, or against any employee or volunteer who has been alleged to be a harasser.

All employees and volunteers have the right to seek the assistance of the relevant tribunal or legislative body to assist them in the resolution of any concerns.

Managers or Supervisors who fail to take appropriate corrective action when aware of harassment of a person will be subject to disciplinary action.

## **AUTHORISATION**

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19<sup>th</sup> June 2016

Whyalla FM Public Broadcasting Association Incorporated

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# SEXUAL HARASSMENT PROCEDURES

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## RESPONSIBILITIES

It is the responsibility of the Board to ensure that:

- they understand and are committed to the rights and entitlements of all employees and members to attend work and perform their duties, without fear of being sexually harassed in any form;
- they understand what constitutes an act of sexual harassment;
- all reasonable steps are made to eliminate sexual harassment;
- all employees and volunteers are regularly made aware of their obligations in relation to providing a workplace free from sexual harassment;
- they provide an environment which discourages harassment and victimisation and set an example by their own behaviour;
- they treat all complaints seriously and confidentially; and
- they take immediate and appropriate corrective action if they become aware of any offensive action.

It is the responsibility of the Human Resources Department to ensure that:

- policies and procedures are regularly reviewed and (if necessary) amended;
- policies and procedures are complied with;
- regular guidance and education is provided to employees regarding sexual harassment and inappropriate behaviour in the workplace;
- managers are aware of their obligations and responsibilities in relation to sexual harassment, and the rights and entitlements of their employees and volunteers;
- ongoing support and guidance is provided to all employees in relation to the prevention of sexual harassment.

## PROCEDURES

### Complaint Process

Sexual harassment can occur at any level of the organisation, can be experienced by both men and women and may involve a co-worker, volunteer, supervisor, manager, service provider, client or customer. Lack of intent is no defense in sexual harassment cases.

Employees or volunteers who believe they are the subject of sexual harassment should take firm, positive and prompt action.

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Where possible, the employee or volunteer should make the perceived harasser(s) aware that they find their behaviour offensive, unwelcome, unacceptable, and that it needs to stop immediately.

If the behaviour continues, or if the employee or volunteer feels unable to speak to the person(s) directly, they should contact their Supervisor or Manager. Alternatively, an employee or volunteer may contact the Human Resources Department or another Manager they feel comfortable with.

The Manager will provide support and ascertain the nature of the complaint and the wishes of the complainant.

## **Informal Intervention**

The Manager will explain the employee or volunteer's rights and responsibilities under organisation's policy, procedures and Equal Employment Opportunity or anti-discrimination legislation.

Informal intervention may be undertaken through a process of mediation or conciliation. During informal intervention the alleged harasser will be made aware of the allegations being made against them and given the right to respond.

This procedure will be complete when the complainant and the respondent come to an agreement on the procedure to be followed. If this occurs, no record will be made of the proceedings, and any subsequent proceedings will begin *de novo*. If this does not occur, the formal procedure should be followed.

## **Formal Complaints Procedure**

The Board may be obliged to carry out a formal investigation in relation to a complaint of sexual harassment.

The formal procedure will be co-ordinated by the Board,

Formal investigations may be conducted internally (by the Board) or by an external investigator.

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.

The investigator may need to interview the parties involved (which may include the complainant, the respondent, and any witnesses) to obtain information regarding the complaint. The investigator will comprehensively and accurately document all information obtained during the interviews including the parties involved, timing, location, and nature of conduct complained against.

If the investigator considers it appropriate for the safe and efficient conduct of an investigation, workplace participants may be stood down from work or provided with alternative duties during an investigation in which case they will be paid their normal pay during any such period.

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Throughout the investigation process, all parties involved in the investigation will be regularly kept informed about the investigation.

Records are to be kept and filed in a confidential and secure place. If no confidential area is available, these notes may be sealed and forwarded to the Board, where they will be maintained, unopened, in a confidential filing system. These records should be kept for a period of seven years. Under no circumstances will records be placed on the complainant's personnel file.

The findings as to whether sexual harassment has 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 harasser (e.g. demotion, transfer, suspension, probation or dismissal);
- Official warnings that are noted in the respondent's personnel file;
- Disciplinary action against the person who complained if there is strong evidence that the complaint was vexatious or malicious;
- Formal apologies and undertaking that the behaviour will cease;
- Conciliation/mediation conducted by an impartial third party where the parties to the complaint agree to a mutually acceptable resolution;
- Reimbursing any costs associated with the harassment;
- Re-crediting any leave taken as a result of the harassment.

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

Following an investigation concerning a sexual harassment complaint (irrespective of the findings), the Manager will:

- consult with the parties involved to monitor the situation and their wellbeing; and
- educate and remind all employees and volunteers of their obligations and responsibilities in relation to providing a workplace free from bullying

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Outcomes will depend upon factors such as:

- The severity and frequency of the harassment;
- The weight of the evidence;
- The wishes of the person who was harassed;
- Whether the harasser could have been expected to know that such behaviour was a breach of policy;
- The level of contrition;
- Whether there have been any prior incidents or warnings.

If the investigation determines that sexual harassment has occurred, the Board must keep a record of all findings. A copy may be placed in the respondent's personnel file by the Board, in accordance with Performance Counselling procedures.

The Board will monitor the outcome to ensure that the offensive behaviour has ceased, and that neither party has been victimised. This may involve follow-up interviews.

If there has been any substantiated victimisation, disciplinary procedures will be followed.

### **Procedures for Dealing with Criminal Conduct**

Some forms of severe sexual harassment (e.g. sexual assault, stalking, indecent exposure, physical molestation, obscene phone calls) may constitute criminal conduct.

While Whyalla FM Public Broadcasting Association is committed to treat most sexual harassment complaints at a company level as far as possible, this type of conduct is not suited to internal resolution. Such complaints should be treated by the criminal justice system.

In relation to alleged criminal offences such as rape or sexual assault, the matter must be immediately referred to the Human Resources Department. Employees/volunteers should be advised of the option of police support or intervention. It is not the obligation or duty of the company to report such matters to the police on behalf of the complainant.

### **AUTHORISATION**

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19<sup>th</sup> June 2016

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