

Harassment in the Workplace

POLICY STATEMENT

A harassment-free Workplace for all employees is the Institute's policy.

All management and staff have a responsibility to ensure we are all able to work in such an environment. We should not condone or participate in any behaviour, which may harass another person. No one ever asks for harassment, it is unwanted and not asked for.

There are serious legal, financial and productivity consequences for the Institute if the appropriate steps are not taken to ensure that harassment is not tolerated in the workplace.

RATIONALE

A harassment-free working environment is free of any intimidating, hostile, offensive or distressing behaviour. This document deals with the behaviour of management and staff towards each other.

Management and staff should not behave in any manner, which could adversely affect the work performance of others, undermine employee morale or cause distress. Harassment can lead to physical or emotional stress and this is not in the best interest of either staff involved or the Institute.

The Equal Employment Opportunity strategies and Occupational Health & Safety Policy are designed to ensure a safe harmonious workplace harassment is detrimental to such an environment. Harassment is also a denial of equality in the workplace and can lead to formal disciplinary action. Most forms of harassment are against state and federal anti-discrimination laws and may also be offences under the crimes Act.

Harassment is a serious breach of conduct and will not be tolerated

CODE OF CONDUCT

The Institute's Code of Conduct and Ethics states the values and principles that are expected from staff as well as coaches, consultants and contractors to the Institute. Following is an extract from the code, which quite clearly describes responsibilities of management and staff in managing their relationships with each other.

In dealing with each other, we recognise a duty to:

Act with courtesy and a concern for the general welfare of others.

- Adhere to the principles of equal employment opportunity and equal access.
- Avoid causing distress or other forms of harm to colleagues.
- Be aware of the need to support training and development initiatives as being necessary to achieve benefits to the institute.
- Co-operate with each other as members of a team.
- Work together so that tasks are shared fairly.
- Contribute to the creation and maintenance of a safe working environment.
- Ensure that evaluation is based on the quality and not just the quantity or performance.
- Encourage open communication.
- Manage change as a positive aspect of the work environment.
- Respect individual differences.
- Support colleagues and treat them with courtesy and respect

WHAT IS HARASSMENT?

Harassment is any behaviour, which is not asked for and not wanted; this can occur because of a person's sex, sexual preference, race, age, marital status, disability, pregnancy or transgender.

Sexual Harassment

Is unwanted unsolicited and unreciprocated conduct of a sexual nature. It is behaviour which harasses because of a person's sex. (Refer to Sexual Harassment in the Workplace Policy Statement)

Harassment Based On Sexual Preference

Is behaviour which harasses a person because of their sexual preference or the sexual preference of their relatives, work colleagues or people with whom they associate.

Racial Harassment

Is any action or inaction which asserts racial, cultural or national superiority over a person or persons in a tormenting, victimising or patronising manner. It includes behaviour which harasses because a person belongs to a particular racial, ethnic or ethno-religious group.

Age Harassment

Is behaviour which harasses someone because of their age or the age of their relatives, work colleagues or people with whom they associate.

Harassment Based On Marital Status

Is behaviour which harasses because a person is or is not married.

Disability Harassment

Is behaviour which harasses because a person has a physical or intellectual disability.

Harassment because of Pregnancy

Is behaviour which harasses because a person is pregnant. Often it means denial of opportunity based on the fact of the pregnancy rather than other considerations.

Transgender Harassment

Is behaviour which harasses because a person is or is thought to be transgender, or because their relative or associate is or is thought to be transgender. Transgender means anyone who lives, has lived or wants to live as a member of the opposite gender to their birth gender.

Harassment may be:

An example is:

A Single Incident

Putting up an explicit poster of a naked person

A Series Of Incidents

Name calling, graffiti, isolation and segregation
Becoming the butt of people's jokes

Obvious

Displaying or circulating racist cartoons or literature

Subtle

Deliberately withholding information from someone because of their Race, Age, etc

Direct

Obscene telephone calls

Indirect

Setting different work and conduct standards for people on the basis of their Sex, Age etc

Verbal	Spreading rumours
Non-Verbal	Offensive hand or body gesture
Physical	Assault

Because it is not wanted and not asked for harassment can humiliate someone, offend them or intimidate them. However staff should be aware that other kinds of behaviour can also cause distress to another officer - staff should be guided by the Institute's Code of Conduct and also by this Policy in their relationships with other staff/colleagues.

Harassment is often about one person or a group of people using power in an inappropriate manner over another person or group of people. This power imbalance can sometimes make it difficult for a person being harassed to say no or to give an indication that the behaviour is unwarranted. The inability of the person being harassed to confront the harasser may be due to fear of work related reprisals such as dismissal, demotion or other victimisation. However, although the victim may appear to accept the inappropriate use of power, it is still clearly harassment and the harasser will be dealt with accordingly. Certain behaviour may not be intended as harassment, however, it could be offensive or distressing to someone else and may be considered harassment. Additionally, behaviour that is seen to be acceptable outside the workplace could be harassment when it happens at work.

EXAMPLES

The following examples could be perceived as harassment. This is not an exhaustive list - any behaviour could be harassment if it happens because of a person's race, age, marital status, sex, sexual preference disability, pregnancy or transgender; is not wanted and not asked for.

Physical Harassment

- Unnecessary physical contact.
- Indecent or sexual assault, physical assault, attempted assault - these are criminal offences.
- Pushing, shoving or jostling, pinching or patting, kissing and touching.
- Offensive gestures.
- Hand grabbing or placing your arm around someone's shoulder.

Verbal Harassment

- Sexual remarks offensive jokes or innuendo.
- Name calling or making fun of someone.
- Imitating someone's accent.
- Referring to a transgender as "it".
- Propositions, sexual invitations or repeated unwelcome invitations.
- Repeated personal questions.
- Threats or insults.
- Use of language that is not suitable in the work place.
- Refusing to call someone by their preferred name.

Non Verbal Harassment

- Putting sexually suggestive, offensive or degrading insulting material on walls, computer screen savers, e-mail and so on.
- Sexually suggestive body language, including winking and raised eyebrows.
- Unwelcome practical jokes.
- Unnecessarily leaning over someone.
- Sending offensive material through computer fax or E-mail.
- Mimicking someone with a disability.
- Preventing someone from using the toilet of their preferred gender.

- Invading someone's personal space - that is standing/sitting close to them at a distance which makes them uncomfortable.
- Compelling a person's participation in social activities which conflict with cultural or religious beliefs and practices. for example to celebrate an event which is not in their culture or religion.
- Placing undue influence on a person to retire or use performance or medical assessment to force a person to retire.

WHAT ISN'T HARASSMENT?

Relationships or behaviour that is freely entered into by both parties is not harassment. If people are in doubt whether their behaviour may be offensive and unwanted they should ask the person whether what they are doing is acceptable to them.

Legitimate feedback on your work performance from your supervisor/manager is also not harassment. This feedback provides you with practical information on how you can improve your work performance. However if you feel the feedback is not justified you should discuss this with the person providing the feedback.

LEGAL CONSEQUENCES

Harassment is against state & federal laws and action can be taken against the harasser under the relevant legislation. In New South Wales the Equal Opportunity Tribunal has the power to award substantial financial damages for loss and suffering which arise from harassment

Liability for harassment may extend further than the harasser - the Institute is liable where it has not taken reasonable steps to stop or prevent harassment. This liability extends to individual managers and supervisors for their areas of responsibility, or if they are approached by any individual in the Institute reporting harassment.

The following forms of harassment are criminal offences and will be dealt with accordingly:

- Attempted assault.
- Indecent assault.
- Sexual assault including rape.
- Physical assault.

CONFIDENTIALITY

- All complaints of harassment will be treated with the highest level of confidentiality possible in the circumstances and rights to privacy will be protected.
- The complaint should not be discussed with other members of staff, except where others have an important contribution to make towards resolution.

- Any documentation should be kept secure and access limited.
- Other staff will only be involved if they are considered witnesses.
- Any breach of confidentiality or security will be treated seriously.

WHAT TO DO WHEN HARASSMENT HAPPENS

If You Are Harassed

- If you can tell the harasser to stop. Tell them you do not like what they are doing and that if the behaviour continues you will take formal action.
- Keep a record of incidents, including, date, time, any witnesses, what happened and what you said, did or felt.
- Get advice quickly and if harassment continues, tell someone else – your supervisor or team leader or another team leader, the grievance officer or Business Manager, or the Anti-Discrimination Board.
- The person you tell has a responsibility to follow your instructions, for example if you want them to approach the harasser they should do this for you. If you wish formal grievance procedures to be followed you should make it clear.

Staff Responsibility

- All staff should respect the rights of others and never encourage harassment
- If you know someone is being harassed, support them to say 'no' and tell them you will act as a witness if they decide to lodge a complaint.
- Always refuse to join in any harassing activity - even if you are not the main offender you will have breached the code of conduct and will be dealt with accordingly.
- It is not your responsibility to say anything to the harasser without the agreement of the person being harassed.
- If you see harassment happening in the workplace and with the consent of the person being harassed you should inform the Business Manager.

Management Responsibility

- Management is legally responsible for making sure that staff are not harassed. All Managers will ensure that:-

- They inform staff about the Institute's policy on Harassment and Grievance Procedures.
- They do not indulge in any behaviour that may be perceived as harassment.
- They act when they see or hear harassment.
- The work environment is free from any material on walls, computer screen savers etc that could be offensive.
- Harassment is not tolerated under any circumstances.
- Action Is taken to ensure the harassment stops.
- Staff can complain about harassment to an officer organisation of their choice.
- Wherever possible, complaints are settled in the workplace.
- Harassment complaints are taken seriously and handled as set out in the 'Grievance Policy & Procedures' document.
- Harassment complaints are investigated fairly and impartially – immediately.
- Staff making the complaint and any witnesses are not victimised – their names are not discussed except with people immediately involved in the harassment.
- The complaint is handled by the person who can best help.