Sexual harassment policy

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We acknowledge Aboriginal and Torres Strait Islander people as Australia’s first peoples and as the Traditional Owners and custodians of the lands and waters on which we rely. We pay respect to Elders past and present of the lands where we conduct our work and recognise their ongoing contributions as the first educators on the land now known as Victoria.

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1. Overview

Sexual harassment is unlawful and prohibited by the *Equal Opportunity Act 2010* (Vic), the *Sex Discrimination Act 1984* (Cth) (SD Act), and the *Fair Work Act 2009* (Cth). Sexual harassment is also a workplace hazard or risk for the purposes of the *Occupational Health and Safety Act 2004* (Vic) (OHS Act). This policy outlines the responsibilities of all Victorian Curriculum and Assessment Authority (VCAA)employees concerning sexual harassment under relevant laws. Sexual harassment is not tolerated, the intention of the VCAA is to ensure that workplaces are safe, inclusive, and respectful.

This policy applies to all employees within the VCAA. For the purposes of this policy, the term 'employees' encompasses VCAA employees of the direct workforce, as well as any individuals or groups undertaking an activity for or on behalf of the VCAA, including:

* all employees (fixed term, casual, sessional) employed under Ministerial Order No. 1451 – Victorian Curriculum and Assessment Authority employees (Employment Conditions, Salaries, Allowances, Selection and Conduct) Order 2023 (referred to as ‘The MO’)
* Board members.

However, it may be the case that some of the legislation, policies and instruments mentioned in this policy may only apply to particular categories of employees.

1. Objectives

* **Prevention and awareness:** Raise awareness among employees about what constitutes sexual harassment, including verbal, physical, and visual forms of harassment. The policy provides clear definitions and examples of unacceptable behaviour, as well as guidelines on how to prevent and report incidents of sexual harassment. By educating employees about their rights and responsibilities, the VCAA can create a more respectful and inclusive workplace culture.
* **Zero tolerance:** Assert a zero-tolerance stance towards sexual harassment in the workplace. The policy clearly states that sexual harassment will not be tolerated under any circumstances and that individuals found engaging in such behaviour will be subject to disciplinary action, up to and including termination of employment. The VCAA takes sexual harassment seriously and is committed to creating a safe and harassment-free work environment for all employees.
* **Prompt and effective response:** Ensure that complaints of sexual harassment are promptly and thoroughly investigated, and appropriate corrective action is taken. The policy outlines a clear and confidential procedure for reporting incidents of sexual harassment, as well as specifies the steps to be taken to investigate complaints and address the matter. Prompt and effective responses demonstrate the VCAA’s commitment to supporting victims and holding perpetrators accountable.
* **Support and assistance:** Provide support and assistance for victims of sexual harassment. The policy includes support services, such as counseling and assistance, offered to employees who experience harassment. It outlines methods to address the effects of harassment, such as training programs, or taking disciplinary action against the harasser. By offering support and assistance, the VCAA can help victims recover from the harm caused by sexual harassment and prevent future incidents.

1. Principles
   1. Provide a safe work environment

Establish a safe working environment that is free from sexual harassment. This commitment ensures that all employees can perform their duties without fear, discomfort, or intimidation due to unwelcome sexual conduct.

* 1. Support diversity and inclusive work practices

Respecting and valuing differences among employees, promoting a culture that welcomes individuals from various backgrounds, and fostering a workplace that is inclusive and welcoming to all.

* 1. Promote respect amongst all people

Encourage respectful behaviour and interactions between all employees, regardless of their gender, race, or background. It aims to create an atmosphere where every individual is treated with dignity.

* 1. Encourage fair and equitable treatment

Ensure that all employees receive equal treatment and opportunities, free from discrimination, including sexual harassment. It underscores the importance of a level playing field for everyone.

* 1. Inform employees of personal liability

Employees are made aware that they can be held personally liable if allegations of sexual harassment are substantiated against them.

1. Roles and responsibilities
   1. The employer

The employer (VCAA) is responsible for:

* establishing transparent and accessible procedures for employees to report any concerns or complaints they may have regarding workplace conduct
* proactively addressing any behaviours or actions that could be considered sexual harassment, even in the absence of a formal complaint
* regularly communicating the reporting processes and procedures to all employees, ensuring they are aware of their rights and avenues for seeking assistance or making complaints
* continuously monitoring the implementation of policies and procedures related to sexual harassment to ensure they are being followed effectively
* proactively identifying potential risk factors for sexual harassment within the workplace, including inadequate training, or unclear expectations
* fostering a culture of respect, collaboration, and inclusivity within the organisation to promote positive working relationships among employees
* offering comprehensive training programs to educate employees and managers about sexual harassment, and awareness
* uphold and enforce clear standards of behaviour outlined in VCAA policies, Victorian Public Sector Code of Conduct, and legislative requirements
* actively promote awareness of the VCAA sexual harassment policy and the procedures for reporting complaints
* address all complaints of sexual harassment seriously and handle them with sensitivity, confidentiality, and urgency
* regularly assess the work environment to ensure that acceptable standards of conduct are being observed at all times
* reinforce the VCAA's values (our values) and the Victorian Public Sector Code of Conduct as fundamental principles that guide behaviour and decision making.
  1. Employees

Employees should:

* adhere to the clear standards of behaviour outlined in the VCAA sexual harassment policy, as well as our values and the broader Victorian Public Sector Code of Conduct
* promptly report any incidents or instances of sexual harassment witnessed or experienced in the workplace to a manager or authorised delegate
* cultivate a positive workplace culture by modelling behaviour that reflects the organisation's core values through embodying our values in interactions and decision-making processes
* participate in training sessions in order to deepen an understanding of sexual harassment issues and learn how to effectively uphold our values.

Expectations

* 1. What is sexual harassment?

Sexual harassment occurs in circumstances in which the behavioural conduct is unwelcome, sexual in nature, and where a reasonable individual, having regard to all the circumstances, would have anticipated that the other individual would be offended, humiliated or intimidated.

Sexual harassment in the workplace may take various forms and can be directed at, and perpetrated by, all individuals including men, women, transgender people, and those who identify as non-binary. It may be physical, spoken or written and may include, but is not limited to:

* unwelcome physical contact of a sexual nature
* comments or questions of a sexual nature about a person’s private life or their appearance
* sexually suggestive behaviour, such as leering or staring or offensive gestures
* brushing up against someone, touching, fondling or hugging
* sexually suggestive comments or jokes
* displaying offensive screen savers, photos, calendars or objects
* repeated requests to go out
* unwanted displays or declarations of affection
* requests for sex
* sexually explicit emails, text messages or posts on social networking sites
* sexual assault, indecent exposure, physical assault and stalking (which are criminal offences), and
* actions or comments of a sexual nature in an individual’s presence (even if not directed at that individual).

There is no requirement that the unwelcome conduct be repeated; a one-off incident can be sexual harassment. Equally, a broader pattern of behaviour can constitute sexual harassment.

A key element of sexual harassment is that it is unwelcome. However, just because someone does not object to inappropriate behaviour in the workplace at the time it occurs does not mean that they are consenting to the behaviour or consenting for the behaviour to continue at another time.

Motive is irrelevant; the test focuses on how the behaviour is received by the other individual. It is the responsibility of all employees to ensure that they do not engage in any behaviour that could amount to sexual harassment. Sexual harassment can occur even when an individual does not intend to offend or humiliate.

* 1. Behaviour that is not sexual harassment

Sexual harassment is not behaviour which is based on mutual attraction, friendship and respect. If the interaction is consensual, welcome and reciprocated, it is not sexual harassment.

This does not mean that sexual or romantic interactions in the workplace are always appropriate. Employees should familiarise themselves with relevant polices dealing with consensual personal relationships in the workplace. For further information, please refer to the VCAA Conflict of Interest Policy.

* 1. Within the workplace

A workplace is any place an employee attends for the purpose of carrying out functions in connection with, or in the course of their employment or prospective employment. It includes a place that is a workplace of either, or both individuals involved in an incident of sexual harassment. For example, this policy also pertains to employees who visit other offices i.e. the same behavioural standards that exist in their workplaces, apply in other offices that employees visit.

A workplace does not need to be the individual’s principal place of employment. It may also be a place a person attends for the purpose of carrying out functions in relation to their employment.

The workplace is not confined to the actual physical location used by employees. It also extends to common areas such as lifts, entrances, vehicles, reception areas, corridors, kitchens and toilets of the premises.

* 1. Beyond the workplace and outside working hours

Behaviour constituting workplace sexual harassment can occur beyond the usual workplace and outside normal working hours. For example, workplace sexual harassment can occur where there is a link to employment including (but not limited to):

* at social functions sponsored and paid for by the VCAA
* at social functions in connection with the workplace but not sponsored or paid by the VCAA
* in vehicles while on the way to workplaces, work events or meetings
* at after-parties to such events (regardless of its location)
* in accommodation (including hotel rooms) associated with or provided by the VCAA
* online via use of technology and social media, and
* any other location in situations where the conduct commenced in the workplace and continued outside the workplace and vice-versa.

Consumption of alcohol at work functions or at a work-related event outside the usual workplace and hours of work is not an excuse for conduct that constitutes sexual harassment. Employees should regulate their own behaviour and consumption of alcohol to ensure their behaviour does not adversely impact others. Employees should be mindful that in such situations, they continue to be subject to the Victorian Public Sector Code of Conduct and public sector behavioural standards.

* 1. Criminal offences

Some types of sexual harassment may also be unlawful under criminal law. These include indecent exposure, stalking, sexual assault and obscene or threatening communications, such as phone calls, letters, emails, text messages and posts on social networking sites.

Employees who believe they have been the victim of a criminal offence are encouraged to report the incident to Victoria Police as soon as possible, as well as reporting the matter to a manager or authorised delegate.

The VCAA also has a responsibility to deal with allegations of sexual harassment even when Victoria Police are, or have been involved. The VCAA will determine the appropriate action to be taken in the workplace.

In relation to complaints involving employees, close liaison by the manager with the VCAA Human Resources area and/or Victoria Police is necessary at the outset. This is to ensure that the police investigation is not interfered with or compromised in any way.

* 1. Reporting or making a complaint

The VCAA strongly encourages employees who believe they have been sexually harassed or have witnessed sexual harassment to consider reporting their experience in one of the following ways:

* talk to the individual directly – this should be done only if the individual feels comfortable and safe doing so (noting this approach may suit some situations and people but not others)
* emailing or speaking to a manager or authorised delegate
* if you are not comfortable talking to your manager or authorised delegate, you may contact:
* the VCAA Human Resources
* the VCAA's workplace contact officers, or
* the division’s executive director.

At any time, employees may also be able to make a complaint of sexual harassment to the following organisations:

* Australian Human Rights Commission
* Victorian Equal Opportunity and Human Rights Commission
* Victorian Civil and Administrative Tribunal
* Fair Work Commission
* Victoria Police (for criminal offences).
  1. Responding to sexual harassment

If a report of sexual harassment is made, or sexual harassment is observed or brought to the attention of the VCAA, it must be acted upon as soon as practicable. Reports will be managed with consideration to the sensitive and confidential nature of the reports and ensuring procedural fairness to those against whom the report is made.

All employees with management responsibilities, regardless of level, have a responsibility to improve the work culture by adopting a zero-tolerance approach to sexual harassment. All employees are required to take active steps to prevent sexual harassment in a workplace, not just respond to reports if they arise.

The appropriate action for the VCAA to take when a report is raised, or when a matter is otherwise brought to their attention, will vary on a case-by-case basis. However, it may not be appropriate not to act, or to keep quiet, even where the individual who has made the report states that they do not want any further action to be taken. This is because in some instances, the conduct to which the subject of the report relates may constitute an occupational health and safety risk or a criminal offence or require disciplinary action to be taken.

The VCAA must take reasonably practicable steps to ensure the safety and well being of all employees as per the OHS Act. Additionally, the VCAA has a duty to take reasonable and proportionate measures to eliminate, as far as possible, sex discrimination, sexual and sex-based harassment, hostile work environments on the grounds of sex and victimisation under the SD Act.

Executive directors, managers, authorised delegates and VCAA Human Resources should ensure that the individual who has made the report and the respondent to the allegations are informed of the supports available to them, such as the Employee Assistance Program (EAP) or equivalent, as early as possible.

* 1. Informal processes

In some instances, it may be appropriate to address a report of sexual harassment at an informal level, such as conducting or facilitating discussions to address the behaviour, or refresher training for the general work area on the requirements of this policy.

* 1. Formal processes

In other cases, a formal approach may be appropriate. Formal processes typically involve investigating the report, making a finding, and deciding on an appropriate outcome. Formal processes will be undertaken in line with relevant VCAA policies, procedures and industrial instruments. Schedule 1 of the MO sets out the management procedure of unsatisfactory performance for employees covered by the MO.

If a complaint of sexual harassment is made, or sexual harassment is observed or brought to the attention of an executive director, manager, authorised delegate or the Human Resources area, itmust be acted upon immediately and managed in a sensitive and confidential manner.

Where a complaint of sexual harassment is found to be substantiated, the consequences for the individual against whom the complaint is made will depend on the particular circumstances. The consequences may include an apology, counselling, undertaking training, or disciplinary action up to and including termination of employment.

* 1. Bystander Intervention

Bystanders, including employees, who witness or are aware of sexual harassment, can play an important role in responding to sexual harassment in the workplace. When grounded in behaviours of integrity and respect, action taken by colleagues can positively impact on defining workplace culture.

Bystanders that are aware of sexual harassment are encouraged to:

* provide support to the employee subjected to the sexual harassment
* formally or informally challenge concerning behaviour, and
* report sexual harassment.
  1. Information or claims without substance

Knowingly providing false information or baseless allegations may result in disciplinary action.

* 1. Confidentiality

Disclosures or reports of sexual harassment will be treated in confidence to protect personal privacy as much as possible. However, allegations of sexual harassment or potential criminal conduct are serious and should be considered accordingly. In some instances, a matter may need to be escalated or referred without agreement from the employee, particularly in circumstances that may:

* constitute a criminal offence
* constitute an occupational health and safety risk, or
* require disciplinary action.

Only relevant persons in the VCAA will be advised of the declaration/report and any arrangements necessary for the purpose of managing the disclosure/report.

* 1. Anonymous reports

Employees who report sexual harassment, or who have witnessed sexual harassment may ask to remain anonymous. However, it may not be possible for VCAA to keep the identity of a person, or people providing information, confidential. It may be necessary to provide a respondent with the full details of allegations, including the names of complainants and witnesses, to ensure procedural fairness and natural justice. Disclosure may also be required for safety or legal reasons, and employees will be notified if this happens.

* 1. Support, assistance and further information

Support is available to all employees involved in reporting and managing a complaint, even after the matter has been resolved.

The VCAA encourages all employees to speak to their manager or authorised delegate to discuss any concerns they may have regarding the conduct of any VCAA employee.

Employees can also seek support from a workplace contact officer, the EAP, the VCAA Human Resources area, the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) or the Australian Human Rights Commission (AHRC). Contact details for various free support services are as follows:

* The Employee Assistance Program (EAP)
* VEOHRC’s free and confidential dispute resolution service on 1300 292 153
* AHRC’s free and confidential dispute resolution service on 1300 656 419.

Employees may wish to access external support services, such as:

* 1800RESPECT – 1800RESPECT provides information, referral and counselling services to individuals experiencing, or at risk of experiencing sexual assault, domestic or family violence. It is also available to friends, family and professionals. 1800RESPECT provides a confidential service 24 hours a day, 7 days a week. You can contact 1800RESPECT by visiting [www.1800respect.org.au](http://www.1800respect.org.au/) or calling 1800 737 732.
* Centres Against Sexual Assault – Centres Against Sexual Assault are non-profit, government-funded organisations that provide support, counselling and crisis care to child and adult victims of sexual assault and their family. You can find your local centre by visiting [www.casa.org.au](http://www.casa.org.au/).
* Lifeline – Lifeline is a national charity providing all Australians experiencing a personal crisis with access to 24-hour crisis support and suicide prevention services. You can contact Lifeline by visiting [www.lifeline.org.au](http://www.lifeline.org.au/), calling 13 11 14 or texting 0477 13 11 14
* Sexual Assault Crisis Line – The Sexual Assault Crisis Line is a state-wide, after-hours, confidential, telephone crisis counselling service for people who have experienced both past and recent sexual assault. You can contact the Sexual Assault Crisis Line Victoria by visiting [https://www.sacl.com.au](https://www.sacl.com.au/) or by calling 1800 806 292.

1. Managing this policy
   1. Authorisation

This policy is issued under the authority of the Chief Executive Officer.

* 1. Accountability for the policy

The owner for this policy is VCAA Human Resources. The owner reports to the Chief Executive Officer on the management of this policy.

The owner is responsible for:

* development and regular review of this policy
* development of protocols, processes and guidelines to support implementation
* monitoring compliance of applicable employees, organisational units, and/or locations.
  1. Important dates

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| Date of adoption: | July 2024 |
| Date of last amendment: | July 2024 |
| Date of next review: | July 2026 |

1. Related documents

* Ministerial Order No 1451
* Victorian Public Service Enterprise Agreement 2020
* Victorian Public Sector Code of Conduct
* Equal Opportunity Act 2010 (Vic)
* Sex Discrimination Act 1984 (Cth)
* Fair Work Act 2009 (Cth)
* Occupational Health and Safety Act 2004 (Vic)
* Australian Human Rights Commission
* Victorian Equal Opportunity and Human Rights Commission
* Victorian Civil and Administrative Tribunal
* VCAA Values (Our Values)
* VCAA Conflict of Interest Policy.