



SEXUAL HARASSMENT POLICY

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Drafted by	Nicole Crook	Approved by board on	Feb 2019
Responsible person	Nicole Crook	Scheduled review date	Feb 2020

INTRODUCTION

Patersonia recognises the right of every student, employee, volunteer and community member to be able to attend Patersonia without being subjected to any form of sexual harassment. It is the obligation and responsibility of every employee and volunteer to ensure that Patersonia is free from sexual harassment. Patersonia is fully committed to its obligation to ensure there is no sexual harassment in the organisation.

PURPOSE

The purpose of this document is to outline Patersonia's position on sexual harassment as it pertains to adults and to document the process which is to be followed should any grievances arise. Patersonia is fully committed to being a Child safe organisation as detailed in the Child Protection Policy which applies to all minors in Patersonia's care.

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

Patersonia will not tolerate sexual harassment under any circumstances. Responsibility lies with every board member, educator, employee/volunteer, student and visiting community members 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.

Patersonia strongly encourages anyone who feels they have been sexually harassed to take immediate action. If the person being harassed feels comfortable to do so, it is preferable to raise the issue with the person directly with a view to resolving the issue by discussion. The harassing behaviour should be identified and it should be explained that the behaviour is unwelcome and offensive. Ask that the behaviour stops.

Alternatively, or in addition, they may report the behaviour in accordance with the Grievance Policy. Once a report is made Patersonia must 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, promptly and 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 person 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 person who has been alleged to be a harasser.

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

Staff members who fail to take appropriate corrective action when aware of harassment of a person will be subject to disciplinary action.

RESPONSIBILITIES

It is the responsibility of the Business Manager to ensure that:

- they understand and are committed to the rights and entitlements of all employees 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;
- Equal Employment Opportunity Contact Officers are appointed, trained and known to all staff;
- 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 Board 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

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

Persons who believe they are the subject of sexual harassment should take firm, positive and prompt action. Where possible, the perceived harasser(s) should be made aware that their behaviour is offensive, unwelcome, unacceptable, and that it needs to stop immediately.

If the behaviour continues, or if the harassed person feels unable to speak to the person(s) directly, they should contact the Team Leader or Business Manager. Alternatively, an employee or volunteer may contact any Board Member they feel comfortable with.

The Leader/Manager will provide support and ascertain the nature of the complaint and the wishes of the complainant. They will explain the person's rights and responsibilities under Patersonia's policy, procedures and Equal Employment Opportunity or anti-discrimination legislation. Patersonia's Grievance Policy will be followed.

The Leader/Manager 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 Leader/Manager, who will be guided by the Chairperson. Formal investigations may be conducted internally or by an external investigator. 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

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.

Disciplinary procedures may be enacted.

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 Patersonia 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 offenses such as rape or sexual assault, the matter must be immediately referred to the Chairperson. 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.

RELATED DOCUMENTS

- Grievance Policy
- Workplace Bullying Policy
- Child Protection Policy
- Privacy and Confidentiality Policy