

	<h1>SEXUAL HARASSMENT</h1>	<b>Document No:</b>	HR-PRO-036
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## 1. Purpose

Sexual harassment is unlawful and unacceptable. The Australian Catholic Bishops Conference (ACBC) does not tolerate any form of sexual harassment and is committed to promoting a workplace culture that accepts diversity and prevents demeaning attitudes towards any worker. Above all, the ACBC is committed to ensuring that all workers are treated with respect and dignity.

This procedure gives guidance on how complaints of sexual harassment should be managed by ACBC Agencies.

## 2. Scope

This procedure applies to all workers including job applicants, student placements, apprentices, volunteers and contractors at ACBC agencies.

This document gives guidelines and the ACBC may amend, remove or replace it. These guidelines are not intended to be contractually binding and the ACBC and its Agencies may depart from these guidelines in individual instances.

## 3. Related Documents

Age Discrimination Act 2004  
 Australian Human Rights Commission Act 1986  
 Disability Discrimination Act 1992  
 Racial Discrimination Act 1975  
 Sex Discrimination Act 1984  
 Fair Work Act 2009  
 Australian Capital Territory : Discrimination Act 1991  
 New South Wales : Anti-Discrimination Act 1977  
 Northern Territory : Anti-Discrimination Act 1996  
 Queensland : Anti-Discrimination Act 1991  
 South Australia : Equal Opportunity Act 1984  
 Tasmania : Anti-Discrimination Act 1998  
 Victoria : Equal Opportunity Act 2010  
 Western Australia : Equal Opportunity Act 1984  
[ACBC Antidiscrimination Policy](#)  
[HR-PRO-011 Grievances](#)

## 4. Definitions

### Sexual Harassment

Sexual harassment is any unwanted, unwelcome or uninvited behaviour of a sexual nature which a reasonable person would have anticipated the possibility that the person harassed would be humiliated, intimidated or offended. Sexual harassment can take many different forms and may include physical contact, verbal comments, jokes, propositions, the display of offensive material or other behaviour which creates a sexually hostile working environment. Sexual harassment can be physical, spoken or written. It can include but is not limited to:

- comments about a person's private life or the way they look
- sexually suggestive behaviour, such as leering or staring
- brushing up against someone, touching, fondling or hugging
- sexually suggestive comments or jokes

- displaying offensive screen savers, photos, calendars or objects
- repeated unwanted requests to go out
- requests for sex
- sexually explicit posts on social networking sites
- insults or taunts of a sexual nature
- insults or taunts related to breastfeeding
- intrusive questions or statements about a person's private life
- sending sexually explicit emails or text messages
- inappropriate advances on social networking sites
- accessing sexually explicit internet sites
- behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking.

**Note:** A single incident of any of unwanted, unwelcome or uninvited behaviour of a sexual nature may constitute sexual harassment. The behaviour does not necessarily have to be repeated.

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.

### **Supervisor**

The Supervisor is a Bishop, an Agency Head, Director, Manager, Coordinator or Team Leader, who is responsible for the day-to-day supervision of workers.

### **Designated Person**

A Designated Person is the worker who has been given the responsibility for receiving and investigating complaints of sexual harassment. At ACBC the designated person is as follows:

<b>Agency</b>	<b>Designated Person</b>
Caritas Australia	Senior Manager, People and Culture
Catholic Social Services Australia	Director, Corporate Services
NCEC	Manager Governance and Corporate Services
All other ACBC Agencies	Employment Relations Advisor, Office for Employment Relations

### **Contact Officer**

A Contact Officer is a person who has been nominated as the first point of contact for the internal complaints process for bullying, harassment or discrimination. The role of a contact officer is to raise workplace awareness on harassment, educate workers on options available, provide a safe environment for workers to express concerns in a confidential manner and assist in promoting a workplace that is free from discrimination and harassment.

### **Formal Resolution**

A formal resolution is one which is affected through formal resolution procedures as described in this document.

### **Informal Resolution**

An informal resolution is one that will achieve a remedy which is agreeable to complainants, but does not invoke formal resolution procedures. These remedies are achieved by involving the relevant parties and by using methods which may include coaching, counselling, supporting, mediating, or otherwise facilitating the resolution of the complaint.

## 5. Responsibilities

### Supervisor

Supervisors are responsible for:

- Modelling appropriate behaviour
- Promoting a workplace environment where all workers are treated respectfully
- Adopting and actively encouraging those practices and procedures that enable workers to contribute to the best of their ability
- Taking the appropriate action to address inappropriate attitudes or behaviours
- Reporting any incident of sexual harassment
- Ensuring that all complaints are investigated and resolved and the recommended actions are implemented
- Ensuring that this procedure is followed

### Workers

Workers are responsible for:

- Complying with the ACBC Anti-discrimination policy and procedures
- Treating each other fairly with respect and dignity
- Taking appropriate action to address inappropriate behaviour
- Reporting any incident of sexual harassment

### Contact Officers

Where a Contact Officer has been nominated, the contact officer should:

- Remain neutral as the focus is on reconciliation of a dispute and not siding with one party against the other
- Assist in clarifying whether there has or may have been sexual harassment
- Provide information on the organisation's anti-discrimination policy and procedures
- Discuss methods for problem resolution via informal or formal complaints procedure

### Designated Person

The Designated Person in consultation with the Office for Employment Relations is responsible for:

- Advising Agency Heads on appropriate courses of action
- Sourcing and implementing the relevant training
- Ensuring that anti-discrimination training is provided during induction
- Ensuring that ongoing training in anti-discrimination, inclusion and diversity is available to all workers

## 6. Characteristics of Sexual Harassment

Some general characteristics of sexual harassment are as follows:

- A person can sexually harass another person irrespective of whether s/he is a provider or recipient of goods, services or facilities from the other person. This extends to the relationships that arise between workers and anyone else that they come into contact with during their course of work.
- Sexual harassment may be an isolated instance or a series of incidents.
- Sexual harassment in the workplace occurs when it happens at work, at work-related events and between people who may have different employers but share the same workplace.
- The effect of sexual harassment may be the same whether the conduct was intentional or unintentional. (Even though the behaviours which distress a person may have been unintentional, it may still constitute sexual harassment).
- What constitutes sexual harassment to one person may be acceptable and inoffensive to another. Different social or cultural backgrounds may lead people to perceive the same conduct differently.
- Just because someone does not object to inappropriate behaviour in the workplace at the time, it does not mean that they are consenting to that behaviour.
- Sexual harassment may affect anyone regardless of gender.
- Sexual harassment may impact adversely on an individual's career path or prospects because of denial of job and learning opportunities as a result of non-compliance with sexual overtures, or by loss of self-esteem and confidence.
- Sexual harassment can have an adverse effect on the morale and productivity of the workplace.

## 7. Prevention of Sexual Harassment

The ACBC will endeavour to create a work culture where all workers are treated with dignity and respect. The ACBC seeks to achieve this through:

**Communication:** Making known its zero tolerance stance on sexual harassment through communicating its Anti-discrimination, Equal Employment Opportunity and Workplace Bullying and Harassment policies and procedures to all workers.

**Training:** Providing induction and ongoing training and education in anti-discrimination, diversity, equal opportunity and prevention of bullying and harassment at work.

**Conduct:** Encouraging supervisors to model appropriate standards of professional conduct at all times.

**Recruitment:** Ensuring that selection criteria for management positions include the requirement that supervisors have a demonstrated understanding of and ability to deal with discrimination and harassment issues as part of their overall responsibility for human resources.

**Work Environment:** Creating a positive work environment by:

- Removing any offensive, sexually explicit or pornographic calendars, literature, posters and other materials from the workplace
- Encouraging workers to speak up if they witness sexual harassment
- Developing and implementing a policy which prohibits inappropriate use of computer technology, such as e-mail, screen savers and the internet
- Monitoring the incidence of sexual harassment in ACBC workplaces and the use and effectiveness of this procedure

## 8. Complaints

Workers are encouraged to report instances where they believe sexual harassment has occurred. This should be reported to their immediate supervisor in the first instance, providing that the immediate supervisor is not the subject of the complaint.

All complaints regarding sexual harassment must be taken seriously and investigated within a reasonable timeframe. (Refer to [HR-PRO-016 Workplace Investigations](#)). The parties involved must be informed of the conclusions and any recommended actions must be implemented within a reasonable time period.

If an allegation of sexual harassment involves a child or vulnerable adult, workers must report it to the Agency Head and the Office for Employment Relations, so that any mandatory reporting requirements can be met.

If an allegation of sexual harassment involves an Agency Head, workers must report it to the Office for Employment Relations.

If the sexual harassment might constitute a breach of criminal law (such as physical assault, indecent exposure, sexual assault, stalking), workers must report it to the Police.

## 9. Resolution of complaints

There are a number of possible resolutions to complaints of sexual harassment. Depending on the seriousness of the complaint, the outcome may simply be a request for an apology and for the offending behaviour to stop. In other cases, depending on the severity of the complaint, various forms of disciplinary action may be taken, such as formal counselling and/or termination of employment in

serious cases (e.g. situations where the inappropriate behaviour is of a criminal nature or continues despite appropriate, prior counselling and/or disciplinary action).

Sexual harassment is against the law and legal action may be taken against the perpetrator.

### **Informal Resolution**

Taking into account the seriousness of the complaint, and where both parties are willing, an informal resolution to complaints may be sought in the first instance. This may be:

- A request made by the complainant to the person(s) involved for the offensive behaviour to stop.
- A meeting facilitated by the Designated Person between the complainant and the person(s) who is allegedly perpetrating the unacceptable behaviour, to discuss the issue and to agree on a solution.

Workers who do not feel safe or confident to take such action may seek assistance from the Designated Person or the Contact Officer for advice and support or action their behalf.

### **Formal Resolution**

Formal resolution procedures should be used where informal resolution of the sexual harassment complaint has been unsuccessful or is inappropriate due to the nature and seriousness of the complaint.

To instigate this process, the complainant must lodge a complaint in writing, or the Designated Person must have sufficient information to advise this course of action.

A formal complaint will be treated in accordance with the ACBC Grievance Procedure ([HR-PRO-011](#)), although this process may be departed from in appropriate circumstances. Where it is inappropriate for the matter to be reported to the immediate supervisor of the complainant, it may be reported to the Agency Head. For instances where the sexual harassment complaint is aimed at the Agency Head, the complaint can be lodged with the Office for Employment Relations.

## **10. Natural Justice**

In carrying out investigations, keep in mind that individuals accused of sexual harassment have the right in Common Law to be afforded natural justice. An accused person has the right to:

- Be informed of the nature of the accusation
- Respond to all allegations
- Be treated fairly and equitably
- Have the matter handled confidentially
- Be afforded an impartial hearing
- Be advised and supported by a person of their choice

## **11. Confidentiality**

Due to their particularly sensitive nature and potential to cause damage, complaints of sexual harassment must be kept confidential insofar as reasonably possible.

An accusation of sexual harassment can be potentially defamatory. A lack of confidentiality can also harm a person who has made a complaint.

Discussions, information and records related to complaints must remain confidential to the extent that is reasonably practicable.

All documentation and details of sexual harassment enquiries and grievances must be kept in a secure place (e.g. a locked cabinet), under the privacy guidelines.

## **12. Victimisation**

Victimisation of any of the parties involved in a sexual harassment complaint is regarded as a serious breach of conduct. An allegation of victimisation will be formally investigated. If proven, it may result in disciplinary action being taken against the perpetrator, which can include dismissal.

**13. Employee Assistance Program (EAP)**

The ACBC's Employee Assistance Program is available to any worker who requires support or assistance in relation to sexual harassment. Refer to [HR-PRO-031 Employee Assistance Program](#)

**14. Records**

Reports of sexual harassment  
Written complaints  
Diary notes