

CORPORATE SERVICES

Sexual Harassment Prevention and Management Policy

Owner Human Resources

CHD/2023/6552

Last Reviewed 04/12/2023

Version 2.00

Purpose

This policy and supporting documents:

- define sexual harassment and related behaviours
- articulate the avenues for prevention, response to and management of sexual harassment in a zero tolerance work environment.

This document **does not**:

- replace the responsibilities of managers and supervisors to have ongoing communication and take preventative action regarding the standards of performance, conduct and behaviour expected
- limit the rights of workers to formally report a matter internally or externally or exercise any other legal process available to them.

This policy is supported by the following documents:

- [Managing Disrespectful and Unacceptable Behaviour Policy](#)
- [Managing Disrespectful and Unacceptable Behaviour Procedure](#)
- [Bystander Actions Information Sheet](#)
- [Workplace Behaviour Pathways Information Sheet](#)
- [Workplace Behaviours Continuum Information Sheet](#)
- [Managing Employee Grievances Policy](#)
- [Managing Employee Grievances Procedure](#)

Statement

The department acknowledges its duty to provide a safe, respectful and inclusive workplace free of sexual harassment and discrimination and is committed to:

- educating and supporting all workers to prevent, intervene early and respond to offensive behaviour
- minimising the impact of sexual harassment on workers who experience or witness it and the effect on the workplace
- a person-centred approach when addressing allegations of sexual harassment
- ensuring leaders and managers listen to, respect, empower and support workers who report allegations of sexual harassment and act to resolve concerns.



Scope

This policy applies to all workplaces, persons who perform work for the department and other persons including:

- **Employees**
 - permanent, fixed-term, temporary and casual
 - secondees from other agencies (including staffing approved under interchange or mobility arrangements)
 - work placement staff (such as trainees, work experience students, cadets)
 - non-executive employees engaged via a fixed term contract
 - senior officers and senior executives including those engaged via a section 155 contract remunerated at SES level or above, and those undertaking higher duties.
- **Contractors**
 - sub-contractors
 - consultants and
 - their employees (including labour hire staff) who are engaged via contract or agreement.
- **Other Persons**

Any person accessing departmental services, interacting with DTIS workers or entering a workplace, irrespective of the nature or purpose of the contact or visit.

Note: For application of this policy/procedure and supporting documents, the term 'worker' is used collectively to describe persons who perform work for the department.

Definitions

Word/ Term/ Acronym	Meaning
Bystander	A person who is present and witnesses disrespectful or unacceptable behaviour but is not directly involved in the situation.
Delegate	The Director-General and any employee occupying a position which has been authorised to make decisions, exercise powers and/or undertake functions that have been sub-delegated under legislation or a delegation instrument.
Department	The Queensland State Government (home) agency responsible for the governance of this policy document.
Harassment (Discrimination)	Behaviour that is unwelcome or unsolicited, offensive, humiliating or intimidating, and relates to someone's personal characteristics such as age, disability, race, nationality, religion, political affiliation, sex, relationship status, family or carer responsibilities, sexual orientation, gender identity or intersex status. Harmful behaviour that does not amount to bullying (such as single instances) but creates a risk to health or safety. It may be directed towards an individual or group of workers, and may be a single act, or an ongoing pattern of behaviour.

Word/ Term/ Acronym	Meaning
Management Action	Action taken by the department to address disrespectful and unacceptable behaviour that can occur instead of, or in conjunction with discipline.
Manager / Supervisor	Any person whose duties involve or include managing or supervising others in the performance of their duties, irrespective of their formal title.
Other Persons	<p>Other persons as referenced in the <i>Work Health and Safety Act 2011</i>. Others are people who are not workers but whose health and safety may be impacted by one or more accountability areas in the department. Other persons include:</p> <ul style="list-style-type: none"> • Athletes • External Coaches • Clients at the Active Recreation Centres • Contractors and sub-contractors including Health Practitioners • Visitors • Members of the public
Person Conducting a Business or Undertaking (PCBU)	The most senior role in a division of the Department usually called a Divisional Lead. This is usually the Deputy Director-General or Academy Chief Executive.
Person-centred	<p>A person-centred approach to workplace sexual harassment means placing people - the targets of sexual harassment - at the centre of any response to sexual harassment.</p> <p>It is about listening to, empowering and supporting people who are impacted by sexual harassment.</p>
Psychosocial hazards	<p>Hazards that:</p> <ul style="list-style-type: none"> • arise from or in relation to: <ul style="list-style-type: none"> ○ the design or management of work ○ the working environment ○ plant at a workplace, or ○ workplace interactions or behaviours; and • may cause psychological and physical harm. <p>Psychosocial hazards and the appropriate control measures may vary between workplaces and between groups of workers, depending on the work environment, organisational context and the nature of work.</p>
Sexual Harassment	<p>Any unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature, in circumstances where a reasonable person, having regard to all the circumstances, would anticipate the possibility that the person harassed would be offended, humiliated or intimidated.</p> <p>Examples include, but are not limited to:</p> <ul style="list-style-type: none"> • Unwelcome touching or other physical contact • Intrusive questions about a person's private life or body • Staring or leering at a person or at parts of their body or crude jokes or comments about physical appearance • Insults or taunts based on sex

Word/ Term/ Acronym	Meaning
	<ul style="list-style-type: none"> Talking about sex life or asking about another person's sex life, sexual jokes, suggestive comments or unwelcome sexual propositions Display of offensive material, offensive phone calls or transmission of offensive sexual material by email, SMS or other social media. <p>Sexual harassment is unethical, unlawful and may be a criminal offence. Sexual harassment is unacceptable in any Queensland public sector workplace.</p>
Unacceptable Behaviour	<p>Behaviour which:</p> <ul style="list-style-type: none"> defies the workplace culture, policies and legislation includes inappropriate actions, words or physical gestures causes, intends to cause, or could reasonably be perceived to cause, another person distress, discomfort or harm such as: <ul style="list-style-type: none"> bullying harassment (discrimination) sexual harassment victimisation violence or aggression
Workplace	<p>A location where a worker is, or is likely to be, while performing their work or work-related activities including:</p> <ul style="list-style-type: none"> locations where business or work-related social events organised by the department are conducted work in the community any vehicle, form or transport, or mobile equipment used by the employee as part of their job any location approved under flexible work arrangements.

Authority

[Public Sector Act 2022 - Qld](#)

[Code of Conduct for the Queensland Public Service](#)

[PSC Directive 12/23 - Preventing and responding to workplace sexual harassment](#)

[Work Health and Safety Act 2011 - Qld](#)

[WorkSafe Qld – Code of Practice – Managing the risk of psychosocial hazards at work](#)

[Public Interest Disclosure Act 2010](#)

[Crime and Corruption Act 2001](#)

Principles

The application of this policy is defined, guided and supported by the following principles:

- The department recognises disrespectful and unacceptable behaviour exists on a continuum and if not prevented or managed appropriately can escalate and be a precursor to more serious actions.

2. Behaviours that constitute sex discrimination, sex-based harassment or conduct that creates a hostile workplace environment on the grounds of sex and victimisation are unlawful.
3. The department will:
 - a) take a risk management approach to provide and maintain a safe working environment and minimise worker exposure to psychosocial hazards including sexual harassment
 - b) support a pro-active approach for the prevention and elimination of sexual harassment
 - c) implement initiatives to enhance awareness of the rights, responsibilities, obligations and available support for workers who are at risk of, experience, or otherwise become aware of sexual harassment in the workplace
 - d) take a person-centred management approach to resolve concerns by listening to, respecting, empowering and supporting individuals who experience or are exposed to sexual harassment in the workplace
 - e) respond to and manage reports of sexual harassment promptly in a sensitive, appropriate, confidential and unbiased manner.
4. The department takes allegations of sexual harassment seriously and may take disciplinary action for behaviour which is unacceptable and/or unlawful.
5. All workers are:
 - a) entitled to work in an environment that supports productivity, dignity, transparency and respect and in which they feel safe and included
 - b) responsible for behaving and conducting themselves in accordance with the [Code of Conduct for the Queensland Public Service](#) (the Code) and values
 - c) obliged to report behaviour they suspect may cause offence, distress or harm to others in accordance with the [WorkSafe Qld – Code of Practice – Managing the risk of psychosocial hazards at work](#), seeking confidential guidance and support as required
 - d) expected to participate in, and work collaboratively towards, ensuring a healthy workplace that is responsive to addressing disrespectful and unacceptable behaviour.
6. Managers and supervisors will take action to address disrespectful and unacceptable behaviour they observe or are informed of in a timely, appropriate and confidential manner, irrespective of whether a formal complaint or employee grievance is made.
7. Other persons using or accessing departmental services or facilities and/or interacting with workers are expected to take reasonable care of their own health and safety in the workplace, and the health and safety of others who may be affected by their actions.

Delegations

Delegations in relation to this document are to be exercised in accordance with the department's [Human Resource Delegation Instrument](#).

Note: Delegation Schedules are reviewed on a regular basis to ensure they remain current and relevant to operational needs. It is recommended that delegate authority levels are confirmed prior to exercising any powers.

Roles and Responsibilities

Workers

- model the Code and values and behave in a way that promotes a safe, respectful and inclusive workplaces free from sexual harassment and discrimination
- comply with this policy and follow reasonable instructions and procedures to prevent and respond to allegations of sexual harassment
- familiarise themselves with available workplace support options
- act on and/or report experiences of sexual harassment through the channels outlined in the:
 - [Managing Disrespectful and Unacceptable Behaviour Procedure](#)
 - [Managing Employee Grievances Policy](#)
- offer support to sensitively communicate with colleagues who have experienced sexual harassment, maintain their confidentiality and encourage them to seek appropriate assistance
- comply with the responsibilities outlined above, as well as confidentiality requirements and follow all reasonable instructions if a participant in a grievance relating to alleged workplace sexual harassment.

Other Persons

- be aware of and understand the department's behaviour expectations and the zero tolerance stance towards violent and aggressive behaviour
- recognise the impact of behaviour that constitutes sex discrimination, sexual harassment and sex-based harassment on individuals and business operations
- treat workers and other persons with dignity and respect
- comply with departmental policies and procedures relating to business operations, conditions of entry and access to services and health, safety and wellbeing
- know how to raise a concern or complaint in accordance with departmental policies and procedures.

Managers and supervisors

- model the Code and values and behave in a way that promotes a safe, respectful and inclusive workplace free from sexual harassment and discrimination
- inform workers about unacceptable behaviours that enable or condone sexual harassment
- identify and address inappropriate behaviours and advocate for zero tolerance of sexual harassment, disrespectful and unacceptable behaviours
- monitor the workplace to ensure acceptable standards of conduct and implement risk management controls and prevention measures
- treat all alleged sexual harassment seriously and take immediate, appropriate and proportionate action when responding by considering:
 - the severity of the reported behaviour
 - the wishes of the person who reported the alleged behaviour

- how to demonstrate respect and support for workers who report alleged sexual harassment
- ensure workers who report alleged sexual harassment, lodge grievances or witness sexual harassment are not victimised or discriminated against
- ensure individual employee grievances about alleged sexual harassment are made to the Director-General or authorised delegate promptly to ensure the decision timeframe of 14 calendar days (or less) can be met
- ensure workers who report alleged workplace sexual harassment are advised of their rights and obligations under the [Public Interest Disclosure Act 2010](#) and [Crime and Corruption Act 2001](#)
- seek advice and support for the management of complex or serious matters from Human Resources and/or Integrity Services
- promote and implement this policy in their work area and within their team.

Director-General and Delegates

- model the Code and values and behave in a way that promotes a safe, respectful and inclusive workplace free from sexual harassment
- as PCBUs:
 - have a primary duty of care to ensure the health and safety of their workers and other persons in the workplace
 - must provide and maintain (so far as is reasonably practicable) safe and healthy workplaces and environments by consulting with their workers and with other PCBUs about health and safety issues.
- ensure decisions about an individual employee grievance concerning alleged sexual harassment are made as soon as possible but within 14 calendar days of receipt of the grievance
- support leaders and managers to take appropriate and proportionate action when responding to reports of alleged sexual harassment
- take all reasonable action to identify the risk of sexual harassment associated with operations under their responsibility and associated workforce context
- consult with workers and their representatives about sexual harassment related health and safety issues such as through the agency Work Health and Wellness Committee or Agency Consultative Committee
- use appropriate resources, control measures (e.g. training) and processes to address sexual harassment risks
- ensure workers who report alleged workplace sexual harassment are advised of their rights and obligations under the [Public Interest Disclosure Act 2010](#) and [Crime and Corruption Act 2001](#)
- use person-centred practices and prioritise the care and support of impacted workers in the department's approach to resolving sexual harassment issues.

Human Resources and Integrity Services

- support impacted workers and ensure, where possible in accordance with legal obligations, workers who report sexual harassment have input into their preferred way for issues to be managed

- promote this policy and resources to support:
 - workers who report alleged sexual harassment (the complainant)
 - managers or supervisors managing sexual harassment matters
 - workers who have been named in an allegation of sexual harassment (the respondent)
- provide guidance and support to managers or supervisors managing sexual harassment matters on options to resolve issues
- ensure appropriate internal and external support avenues are available to workers:
 - who report alleged sexual harassment
 - identified as respondents to alleged sexual harassment
- ensure that any response to sexual harassment is managed in line with the relevant policies and employment directives.

Related Documents

Departmental policy documents

[Managing Employee Grievances Policy](#)

[Diversity and Inclusion Policy](#)

Positive Performance Management Policy (*under development*)

[Work Health Safety and Wellness Policy](#)

[Domestic and Family Violence Prevention Policy](#)

Work-Related Violence and Aggression Policy (*under development*)

Legislation

[Anti-Discrimination Act 1991](#)

[Human Rights Act 2019](#)

[Industrial Relations Act 2016 - Qld](#)

[Work Health and Safety Regulation 2011 - Qld](#)

[Criminal Code Act 1899](#)

[Sex Discrimination Act 1984 \(Cth\) | Section 47C | Positive Duty](#)

Directives and Circulars

[Individual Employee Grievances Directive \(11/20\)](#)

[Discipline \(Directive 05/23\)](#)

[Workplace investigations \(Directive 17/20\)](#)

[Appeals \(Directive 04/23\)](#)

Government Policy / Guidelines

[Queensland Government - Workplace sexual harassment supporting resources](#)

[Managing Workplace Investigations: a practical guide for the Queensland public sector](#)

[AHRC | Guidelines for Complying with the Positive Duty under the Sex Discrimination Act 1984](#)

Other References / Resources

[QHRC Fact Sheet – Sexual harassment](#)

[QHRC Fact Sheet – Anti-Discrimination Act 1991](#)

[QHRC Fact Sheet - Victimisation](#)

Complaints management

A person who is dissatisfied with, and is directly affected by, a service, action or decision made by the department, its staff or persons it has engaged to provide services may lodge a complaint in accordance with the [Public Sector Act 2022](#) and relevant departmental policies and procedures.

If a complainant is dissatisfied with any action taken by the department in relation to a complaint, and after they have exhausted all available avenues of review within the department, they can request for the department's decision to be reviewed by the [Queensland Ombudsman](#).

Employee grievances and appeals

An employee who is the subject of an administrative decision or action is entitled to lodge a complaint in accordance with the departmental Managing Employee Grievances Policy and Procedure should they feel that the administrative decision is unfair or biased.

Employees who are unsatisfied with the outcome of their employee complaint may be entitled to lodge an appeal in accordance with [PSC Appeals Directive 04/23](#).

An appeal may be started by giving the Industrial Registrar an appeal notice. Further information on starting an appeal and appeal rights is available from the [Queensland Industrial Relations Commission](#) website.

Human rights considerations

This document is compatible with human rights under the [Human Rights Act 2019](#) because it limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of that Act.

This document was last reviewed on 04/12/2023 to ensure actions and decisions under the policy are made in a manner compatible with human rights. Please note, when implementing this policy, departmental officers must still consider if any human rights are relevant to and likely to be impacted by a particular decision, and whether any limitation of human rights are reasonable and justified.

Superseded documents

This policy replaces:

[CHD/2023/6552 Sexual Harassment Prevention and Management Policy v1.00](#)

Date of effect and review

This policy and its supporting documents:

- come into effect from the date of delegate approval
- will be reviewed within two (2) years of the approval date unless otherwise:
 - stipulated in statutory obligations
 - triggered by circumstances determined appropriate by the department.

Delegate approval

ANDREW HOPPER Director-General Department of Tourism, Innovation and Sport
Date: 04 December 2023

Governance process and version control

Version	Date	Author/Owner	Reviewer/Sponsor	Amendment Description	Decision / Action
1.00	13.10.23	Director-General	DDG Corporate		Policy Approval
2.00	04.12.23	Director-General	DDG Corporate	Changes to comply with the positive duty - Section 47C of the Sex Discrimination Act 1984 (Cth)	Policy Approval

Keywords

CHD/2023/6552; workplace; sexual; harassment; bullying; assault; victimisation; bullying; behaviour; unacceptable; perpetrator; psychosocial; psychological; safe; safety; domestic; family; violence; prevention; employee; grievance; public; interest; disclosure; sex discrimination; discrimination; positive duty; worker; workers