



## SEXUAL HARASSMENT AND VICTIMISATION POLICY

Policy Introduction Date March 2023.

### INTRODUCTION

Manly Warringah Gymnastics Club (MWGC) will fiercely defend the right of every staff member to perform their work without being subjected to sexual harassment. Every staff member is responsible for providing an environment that is supportive of this aim. Everyone must treat everyone else with respect and must aim to act as a beacon for good behaviour in the workplace.

It is the obligation and responsibility of every board member, staff member and volunteer to ensure that the workplace is free from sexual harassment and victimisation. Everyone working at [insert name of organisation] is responsible for the care and protection of our people and for reporting information about suspected sexual harassment.

MWGC is fully committed to its obligation to prevent and eliminate sexual harassment in the workplace.

### PURPOSE

The purpose of this policy is to outline MWGC's position on sexual harassment and to document the process which is to be followed should any grievances arise. This policy should be read in conjunction with the Sexual Harassment Procedure.

### APPLICATION OF POLICY

**This policy applies to all staff in the workplace. This policy also applies to the behaviour of third parties towards staff.**

**Staff includes employees, contractors, volunteers, agency on-hire staff, persons seeking employment and students.**

'Workplace' includes:

- All MWGC premises, during or outside business hours.
- Any other place where work is performed by MWGC staff.
- Any other physical or virtual place where work-related activities (including retreats, conferences, MWGC organised social activities) take place.
- Transport used for business purposes; and
- Any other physical or virtual place where the conduct has caused (or is likely to cause) serious damage to the relationship between the relevant staff member and MWGC or damages MWGC interests or where the conduct is otherwise incompatible with the duty of a staff member. For example, this may include sexual harassment outside work.

## DEFINITIONS

*Sexual harassment* means any unwelcome sexual advance or unwelcome request for sexual favours, to the other person, or any other unwelcome conduct of a sexual nature in relation to the other person 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
- sexually suggestive comments or jokes
- insults or taunts of a sexual nature
- intrusive questions or statements about your sex 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.

Sexual harassment can occur even if there is no intention to sexually harass.

A person can be subject to sexual harassment even if the behavior is not directed at them because they work in a hostile work environment where a reasonable person, having regard to all the circumstances, would have anticipated the possibility of the conduct being offensive, intimidating or humiliating to a person of the sex of the person impacted by the conduct.

If someone does not object to inappropriate behaviour in the workplace at the time, it does not mean that they are consenting to the behaviour.

A single incident is enough to constitute sexual harassment, it does not need to be repeated.

*Victimisation* means treating or threatening to treat someone badly because,

- they have made a complaint of sexual harassment
- it is believed they might make a complaint of sexual harassment
- they have assisted someone else make a complaint of sexual harassment
- they refused to do some act because it would amount to sexual harassment or victimisation

Victimisation is unlawful under the anti-discrimination legislation and may also be unlawful discriminatory conduct under the workplace health and safety legislation. It may also be Adverse Action under the *Fair Work Act*.

## POLICY

MWGC will not tolerate sexual harassment or victimisation under any circumstances. Responsibility lies with every Manager, Supervisor, and staff member to ensure that sexual harassment and victimisation does not occur.

Both federal and state and territory Equal Opportunity and Anti-discrimination legislation provide that sexual harassment is unlawful and establish minimum standards of behaviour for all employees.

All staff are expected to behave in a safe, respectful and inclusive manner in the workplace. No staff at any level should subject any other employee, volunteer, customer, visitor or any third-party to any form of sexual harassment or victimisation.

A breach of this policy may result in disciplinary action, up to and including termination of employment.

MWGC strongly encourages any staff member who feels they have been sexually harassed, victimised, or believes they have observed such behaviour, to take immediate action. If a staff member feels comfortable in doing so, they can raise the issue with the person directly with a view to resolving the issue by discussion. The staff member should identify the harassing or victimizing behaviour, explain that the behaviour is unwelcome and offensive and ask that the behaviour stops.

However, given the seriousness of sexual harassment and victimisation, we recommend that this discussion happens in consultation with the relevant manager, Human Resource Department or CEO.

Alternatively, or in addition, they may report the behaviour in accordance with the sexual harassment and victimisation procedure. Once a report is made the organisation will determine how the report should be dealt with in accordance with its obligations and this policy.

Any reports of sexual harassment or victimisation will be treated seriously and promptly with sensitivity. Such reports will be treated as confidential to the extent reasonably practicable.

Complainants have the right to have a support person.

The respondent also has the right to have a support person during any investigation, as well as the right to respond fully to any formal allegations made.

## **CONSEQUENCES OF BREACH OF THIS POLICY**

Any breach of this policy will be taken seriously and may lead to disciplinary action, up to and including termination of employment (for employees) or the cessation of the contract or engagement.

Disciplinary action may include (but is not limited to):

- Counselling
- Requiring a formal apology
- Conciliation/mediation conducted by an impartial third party.
- Training on expected standards of behaviour
- Verbal or written warning
- Changed working arrangements
- Termination of employment, with or without notice (for employees)
- Cessation of the contract or engagement

Managers or Supervisors who fail to take appropriate corrective action when aware of sexual harassment or victimisation of a person will be subject to disciplinary action.

# SEXUAL HARASSMENT AND VICTIMISATION PROCEDURES

This procedure should be read in conjunction with the Sexual Harassment and Victimisation Policy.

## RESPONSIBILITIES

It is the responsibility of the CEO to ensure that:

- they understand and are committed to the rights and entitlements of all staff members to attend work and perform their duties, without fear of being sexually harassed or victimised in any form;
- they understand what constitutes an act of sexual harassment or victimisation.
- all reasonable steps are made to eliminate sexual harassment and victimisation;
- all staff members are regularly made aware of their obligations in relation to providing a workplace free from sexual harassment and victimisation;
- they provide an environment which discourages harassment and victimisation and set an example by their own behaviour;
- [if possible] 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 or illegal behaviour.

It is the responsibility of the Human Resources Department and / or management to ensure that:

- policies and procedures are regularly reviewed and (if necessary) amended.
- policies and procedures are complied with.
- regular guidance and education are provided to staff members regarding sexual harassment and inappropriate behaviour in the workplace.
- managers are aware of their obligations and responsibilities in relation to sexual harassment, victimisation and the rights and entitlements of their staff members;
- ongoing support and guidance are provided to all staff in relation to the prevention of sexual harassment and victimisation

Staff:

- must comply with the Sexual Harassment and Victimisation Policy.
- are encouraged to address sexual harassment if comfortable and safe to do so.
- are encouraged to raise any concerns about sexual harassment or victimisation to the Human Resources Department. This includes any concerning behaviour that staff may have observed, rather than experienced;
- must otherwise treat any concerns about sexual harassment or victimisation confidentially.
- must ensure that a person is not victimised for making, or being involved in, a sexual harassment complaint.

## **PROCEDURES**

### **Complaint Process**

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

Staff who believe they are the subject of sexual harassment or victimisation should take firm, positive and prompt action.

Where possible, the staff member should make the person(s) aware that they find their behaviour offensive, unwelcome, unacceptable, and that it needs to stop immediately.

If the behaviour continues, or if the staff member feels unable to speak to the person(s) directly, they should contact their supervisor or Manager. Alternatively, staff may contact the Human Resources Department or another Manager they feel comfortable with.

[Name of Organisation] will provide support and ascertain the nature of the complaint. Staff who report sexual harassment will be protected against retaliation and staff are reminded that victimisation will not be tolerated.

A person can make an anonymous complaint at any time by emailing [details]. [Name of organisation] will take the steps available to it to consider that complaint and address risk, noting that it may not be possible to address the relevant behavior because of the complaint's anonymity.

### **Informal Intervention**

The Manager will explain the staff member's rights and responsibilities under the sexual harassment and victimisation policy and Equal Opportunity and/or anti-discrimination legislation.

Informal intervention may be undertaken through a process of mediation or conciliation. During informal intervention the respondent will be made aware of the allegations being made against them and given the right to respond.

### **Formal Complaints Procedure**

The Manager may carry out a formal investigation in relation to a complaint of sexual harassment or victimisation.

The formal procedure will be coordinated by the Human Resources Manager or CEO as appropriate.

Formal investigations may be conducted internally or by an external investigator.

An investigation involves collecting information about the complaint and then making a finding (on the balance of probabilities) based on the available information as to whether or not the alleged behaviour occurred. Once a finding is made, the investigator will make recommendations about resolving the complaint or implementing disciplinary action (including and up to termination of employment).

The investigator may need to interview the parties involved (which may include the complainant, the respondent, and any witnesses) to obtain information regarding the complaint. The investigator will comprehensively and accurately document all information obtained during the interviews including the parties involved, timing, location, and nature of conduct complained against.

If MWGC considers it appropriate for the safe and efficient conduct of an investigation, workplace participants may be suspended from work or provided with alternative duties during an investigation in which case they will be paid their normal pay during any such period.

Throughout the investigation process, all parties involved in the investigation will be kept informed about the investigation.

Records are to be kept and filed in a confidential and secure place. If no confidential area is available, these notes may be sealed and forwarded to the Human Resources Department or the CEO, and the documents will be maintained, unopened, in a confidential filing system. These records should be kept for a period of seven years.

Based on 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 respondent (for employees) (e.g., transfer, training written warning or dismissal);
- Official warnings that are noted in the respondent's personnel file.
- Disciplinary action against the complainant (but only 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.
- 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 – as appropriate and in line with confidentiality obligations.

Following an investigation concerning a sexual harassment complaint (irrespective of the findings), Human Resources will:

- consult with the parties involved to monitor the situation and their wellbeing; and
- educate and remind all staff members of their obligations and responsibilities in relation to providing a workplace free from harassment.

If there has been any substantiated victimisation, disciplinary procedures will be followed.

## **Procedures for Dealing with Criminal Conduct**

Some forms of sexual harassment (e.g., sexual assault, stalking, indecent exposure, physical molestation, obscene phone calls) may constitute criminal conduct.

Such complaints should be dealt with by the relevant authorities (such as the police) as part of the criminal justice system.

## **RELATED DOCUMENTS**

- Staff dispute resolution policy
- Child abuse and our responsibilities
- What is bullying, and how to manage it.
- Member protection Policy