

Approved by the Committee: 21st April 2021

Review Date: April 2024

1. POLICY STATEMENT

- (a) Wangaratta RSL is committed to promoting a safe workplace.
- (b) Wangaratta RSL aims to provide a workplace in which no worker is sexually harassed.
- (c) Wangaratta RSL will not tolerate sexual harassment in the workplace and disciplinary action will be instituted against any worker (please see definition below) who is found to have breached this policy.
- (d) This policy should be read in conjunction with Wangaratta RSL's **Equal Opportunity Policy**.

2. EXPECTATIONS AND COMMITMENT

- (a) Wangaratta RSL expects all workers to behave in a professional manner and to treat each other with dignity, fairness and respect. Compliance with this policy is an essential part of meeting that expectation. Disciplinary action may result where there is non-compliance.
- (b) Wangaratta RSL is committed to eliminating sexual harassment and victimisation in the workplace and encourages workers to report sexual harassment so that appropriate measures can be taken. Reasonable and proportionate measures shall be undertaken to eliminate sexual harassment and victimisation as far as possible. Wangaratta RSL acknowledges that in determining whether a measure is reasonable and proportionate the following factors must be considered – the size of the organisation; the nature and circumstances of the organisation; the resources of the organisation; the business and operational priorities and the practicability and the cost of the measures.
- (c) Wangaratta RSL undertakes to ensure that all workers, regardless of their level within the organisation, are fully aware of their obligations under this policy. Training will be provided upon introduction of this policy into the workplace and will become part of the induction process for new staff.
- (d) All workers, including those making allegations of sexual harassment and those against whom allegations are made, will be fully supported by Wangaratta RSL throughout the process.
- (e) If a worker who has made a complaint, or where a worker against whom a complaint has been made, feels victimized in any way as a result of the complaint, they should submit a grievance in writing under the Grievance Policy & Procedure.

3. TO WHOM DOES THIS POLICY APPLY?

- (a) This policy applies to all workers. For the purposes of this policy, “workers” shall include:
- every employee;
 - contractors/sub-contractors and any of their employees whilst engaged on work for Wangaratta RSL;
 - consultants or consultants' employees whilst on Wangaratta RSL's work;
 - volunteers and unpaid workers; and
 - agents whilst acting on behalf of Wangaratta RSL.
- (b) Sexual harassment is forbidden in contexts other than employment. Relevant legislative provisions apply.
- (c) Sexual harassment is not only forbidden within Wangaratta RSL's premises, it is unlawful in any work-related context, including work functions, Christmas parties and while performing work for Wangaratta RSL off the premises.

4. DISTRIBUTION OF POLICY

- (a) The policy is available to the Committee on the intranet. All workers will be made aware of any amendments to the policy.
- (b) The policy will form part of the induction of new employees and will be provided to all other workers who perform work for the organisation.

5. WHAT IS SEXUAL HARASSMENT?

In Victoria, the **Equal Opportunity Act 2010** provides that a person sexually harasses another person if he or she:

- “(i) *makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the other person; or*
- (ii) *engages in any other unwelcome conduct of a sexual nature in relation to the other person in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated.*”

In accordance with the above, conduct of a sexual nature includes:

- Subjecting a person to any act of physical intimacy;
- Making orally or in writing any remark or statement with sexual connotations to a person or about a person in his or her presence;
- Making any gesture, action or comment of a sexual nature in a person's presence.

Sexual harassment is **prohibited** under the relevant State Acts referred to above and the Commonwealth *Sex Discrimination Act 1984*.

- (a) Examples of sexual harassment include:
- Uninvited touching
 - Uninvited kisses or embraces
 - Smutty jokes or comments
 - Making promises or threats in return for sexual favours

- Displays of sexually graphic material including emails, posters, pinups, cartoons, graffiti or messages left on notice boards, desks or common areas
- Repeated invitations to go out after prior refusal
- Sexual gestures
- Sex-based insults, taunts, teasing or name-calling
- Staring or leering at a person or at parts of their body
- Unwelcome physical contact such as massaging a person without invitation or deliberately brushing up against them
- Touching or fiddling with a person's clothing, eg lifting up skirts or shirts, flicking bra straps, or putting hands in a person's pocket
- Requests for sex
- Sexually explicit conversation
- Persistent questions or insinuations about a person's private life
- Offensive phone calls, emails or letters.

(b) Some sexual harassment may also be criminal behaviour. For example:

- Physical molestation or assault
- Indecent exposure
- Sexual assault
- Stalking
- Obscene communications (telephone calls, emails, letters etc).

(c) Please note that any behaviour of a sexual nature which makes another person feel offended, humiliated, threatened, uncomfortable or afraid constitutes sexual harassment, regardless of whether such behaviour is considered offensive by other people.

(d) It is important to note that a person who is found to have engaged in sexual harassment may be found personally liable for the behaviour.

6. WHAT IS NOT SEXUAL HARASSMENT?

- (a) Behaviour based on mutual attraction, friendship and respect is not sexual harassment.
- (b) If the interaction is consensual, welcome and reciprocated, it is not sexual harassment.

7. WHO HAS RESPONSIBILITY FOR ENSURING THAT THE SEXUAL HARASSMENT POLICY IS IMPLEMENTED?

Managers and Supervisors

- (a) Wangaratta RSL has a duty to eliminate sexual harassment and victimisation in the workplace. Therefore reasonable and proportionate measures must be undertaken to eliminate sexual harassment and victimisation as far as possible.
- (b) Managers and supervisors have the primary responsibility for ensuring that sexual harassment of workers does not occur.
- (c) Managers and supervisors have a responsibility to:
- Monitor the working environment to ensure that acceptable standards of conduct are observed at all times

- Model appropriate behaviour themselves
- Promote Wangaratta RSL's sexual harassment policy within their work area
- Treat all complaints seriously and take immediate action to confidentially and sensitively investigate and resolve the matter, including taking disciplinary action if necessary
- Support people in accordance with due process who believe that they have been the victim of sexual harassment
- Refer complaints to another manager (trained in dealing with harassment in the workplace), if they do not feel that they are the best person to deal with the matter (for example, if there is a conflict of interest or if the complaint is particularly complex or serious).

Workers

- (a) All workers have a responsibility to ensure that they do not participate in sexually harassing behaviour in the workplace, or cause, instruct, induce, aid or permit another person to commit an act of sexual harassment.
- (b) The workers have a responsibility to:
 - Comply with Wangaratta RSL's sexual harassment policy
 - Maintain complete confidentiality if they provide information during the investigation of a complaint. Workers should be aware that spreading gossip or rumours may expose them to a defamation action.
- (c) Any worker who believes that they are experiencing sexual harassment are encouraged to seek assistance at the first available opportunity.

8. WHAT SHOULD I DO IF I THINK I AM BEING SEXUALLY HARASSED?

If a worker believes that they are being sexually harassed, the process to be followed is:

- (a) The worker may speak to the alleged harasser directly, if they feel safe to do so. This would involve the worker stating politely and firmly that the alleged behaviour is unwelcomed and asking for the behaviour to stop.
- (b) If direct discussion is ineffective or the worker does not feel safe to do so, they must contact their immediate Manager to discuss the matter, or where the allegation(s) relates to their immediate Manager, the next level Manager. A statement should be completed by the worker particularising the allegation(s) and this statement should be provided to their immediate Manager or next level Manager, as appropriate.
- (c) When allegations of sexual harassment are made, they will be seen as a serious matter and will be investigated in a timely manner.
- (d) The Wangaratta RSL will attempt to manage complaints of sexual harassment first through a mediation process between the parties.
- (e) If mediation is inappropriate or is unsuccessful, Wangaratta RSL will arrange for an investigation of complaints of sexual harassment by an investigator. The investigation will be conducted in accordance with the principles of natural justice. The person accused of sexual harassment will be given the details of the allegation(s) in writing, and will be given an opportunity to respond to the allegation(s).

- (f) Reporting and investigation of sexual harassment is to be conducted in a confidential manner. Any breach of confidentiality during and following the reporting and investigation process may lead to disciplinary action up to and including summary dismissal or cessation of services.
- (g) The parties will be advised of the outcome of the investigation upon its completion.
- (h) Where the allegation(s) of sexual harassment are substantiated, action to be taken will depend upon the seriousness of the allegation(s). The action might include, for example:
 - Requiring a commitment from the person accused of sexual harassment that such behaviour will not occur in future, and/or an apology
 - Mediation where appropriate
 - Counselling and/or training for the person accused of sexual harassment, the person who suffered the sexual harassment and/or the wider workplace
 - Disciplinary action including the summary termination of employment of the person accused of sexual harassment.
- (i) Where the allegation(s) of sexual harassment are not substantiated, the parties will be advised of the outcome.
- (j) Should a party be unsatisfied with the outcome of the investigation, they may take further action in accordance with the organisations *Grievance Policy and Procedure*.

9. WHAT WILL HAPPEN IF I AM FOUND TO HAVE SEXUALLY HARASSED SOMEONE?

- (a) Regardless of their level in the organization, workers found to have engaged in sexual harassment may be subject to disciplinary action up to and including summary dismissal or cessation of services.
- (b) Workers should also be aware that where an instance of sexual harassment constitutes a criminal offence, the police will become involved.

10. DOCUMENTATION

- (a) Wangaratta RSL will retain relevant documentation pertaining to the complaint, investigation and any associated documentation. Such documentation shall be retained on file in a secure location. Only duly authorised persons shall have access to this documentation.

11. DOCUMENTS REFERRED TO IN THIS POLICY:

- (a) *Grievance Policy and Procedure (Employees only)*
- (b) *Disciplinary Policy and Procedure (Employees only)*
- (c) *Equal Opportunity Policy and Procedure*

12. REVISION OF POLICY

- (a) Wangaratta RSL will from time to time audit its incident reports to review the occurrence of discrimination in the workplace.

- (b) This policy will be reviewed every three years. Special reviews will be undertaken where there are substantial changes in legislative provisions.