

2.7 Sexual Harassment Policy

Purpose

The purpose of this policy is to outline Tasmanian Leaders' position on sexual harassment and to document the process which is to be followed should any grievances arise.

This policy applies to all individuals associated with Tasmanian Leaders (TL), including employees, Board members, participants, volunteers, contractors, clients, partners, and any other stakeholders.

This policy applies to conduct that takes place in any work-related context, including program days, conferences, work functions, social events and business trips.

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 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 behaviour 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

Tasmanian Leaders will not tolerate sexual harassment or victimisation under any circumstances. This policy applies to all individuals associated with Tasmanian Leaders, including employees, Board members, participants, volunteers, contractors, clients, partners, and any other stakeholders.

Responsibility lies with everyone to ensure that sexual harassment and victimisation does not occur.

TL strongly encourages any employee who feels they have been sexually harassed to take immediate action. If an employee, volunteer or participant feels comfortable in doing so, they can raise the issue with the person directly with a view to resolving the issue by discussion. The employee or volunteer should identify the harassing behaviour, explain that the behaviour is unwelcome and offensive and ask that the behaviour stops.

However, given the seriousness of sexual harassment, we recommend that this discussion happens in consultation with the CEO or their delegate including internal or external HR personnel.

Alternatively, or in addition, they may report the behaviour in accordance with the relevant procedure to the CEO. Once a report is made TL will determine how the report should be dealt with in accordance with its obligations and this policy. If the complaint is about the CEO, or they don't feel comfortable talking with the CEO, then they should reach out to an alternate member of the team or Board.

Any reports of sexual harassment will be treated seriously and promptly with sensitivity. Such reports will be treated as completely confidential but the person who is subject of the complaint must be notified under the rules of natural justice. The organisation will protect all those involved in the process from victimisation.

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 employee or volunteer will be treated unfairly as a result of rejecting unwanted advances.

Reporting

TL has an Incident Reporting form via Gravity forms on the TL website and all incidents, safety issues, hazards and near misses are reported via this procedure. Once notified the EO has initial responsibility to assess report, put in place any mitigations and report to the CEO and to FAR.

Formal Complaints Procedure

The formal complaint procedure involves a formal investigation of the complaint. Formal investigations may be conducted internally (by the CEO/or delegate) or by an external investigator.

An investigation involves collecting information about the complaint and then making a finding 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.

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 the investigator considers it appropriate for the safe and efficient conduct of an investigation, workplace employees and volunteers may be stood down from work or provided with alternative duties, program participants may be withdrawn from their enrolled program 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 regularly kept informed about the investigation.

The findings as to whether harassment has occurred will be determined on the basis of the evidence, and on the balance of probabilities.

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 (including an up to termination of employment or removal from enrolled program)
- Official warning
- Formal apology and/or an undertaking that the behaviour will cease
- Mediation where the parties to the complaint agree to a mutually acceptable resolution.

Next steps

On completion of the investigation, all parties will be informed about the investigation findings and the outcome of the investigation.

Following an investigation concerning and harassment complaint (irrespective of the findings), the manager concerned 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 harassment.

Procedures for Dealing with Criminal Conduct

Some forms of severe harassment (physical attack, for example, or obscene phone calls) may constitute criminal conduct. While Tasmanian Leaders is committed to treat most complaints about bullying at an organisational 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. Employees, participants or volunteers should be advised of the option of police support or intervention. It is not the obligation or duty of the organisation to report such matters to the police on behalf of the complainant.

Breach of this policy

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

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

Disciplinary action may be taken against anyone who victimises or retaliates against a person who has complained of sexual harassment, or against any employee or volunteer who has been alleged to be a harasser.

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

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