



Sexual Harassment Policy

Our commitment

Foster Primary School is committed to providing safe school, free from sexual harassment. We consider sexual harassment an unacceptable form of behaviour which will not be tolerated under any circumstances and this policy sets out the requirements for maintaining a school free from sexual harassment. **While both women and men can experience discrimination, harassment, vilification, bullying and victimization, we acknowledge that women experience several forms either solely or disproportionately.**

The Sexual Harassment Policy applies to all people in the workplace including school council employees, casual staff, volunteers, contractors and students. Every person in the school is responsible for maintaining a working environment free from sexual harassment and is potentially liable for his or her actions if sexual harassment occurs.

The responsibility for providing a school environment free from sexual harassment is discharged through principals, managers and school councils.

If a complaint of sexual harassment is made, or sexual harassment is observed or brought to the attention of a principal or manager, it must be acted upon immediately and managed in a sensitive and confidential manner. Managers and principals are mandated to take action once a complaint is raised. Action will be taken against any person in the workplace found to have sexually harassed another person.

Where sexual harassment is found to be substantiated, the consequences for the person against whom the complaint is made will depend on a range of factors. The consequences may include an apology, counselling, undertaking training, or disciplinary action such as dismissal.

In implementing the Sexual Harassment Policy, Foster Primary School affirms its commitment to the prevention of sexual harassment and the implementation of equal opportunity principles.

These principles:

- uphold the rights of all people in the workplace to a safe working and learning environment free from sexual harassment;
- support diversity and inclusive work and learning practices;
- promote respect amongst all people in the workplace;
- encourage fair and equitable treatment of people in the workplace;
- allow people in the workplace to have redress against unfair and unreasonable treatment.

In accordance with the public sector values and employment principles in the Public Administration Act 2004, Foster Primary School is also committed to respecting, promoting, supporting and implementing human rights set out in the Charter of Human Rights and Responsibilities 2006.

What is sexual harassment?

Sexual harassment is unlawful behaviour under the Commonwealth Sex Discrimination Act 1984 and the Victorian Equal Opportunity Act 2010.

'Sexual harassment is conduct of a sexual nature that is unwelcome. Sexual harassment can be physical, verbal or written. It involves behaviour that could reasonably be expected to make a person feel offended, humiliated or intimidated. Even if the behaviour is not intended by the individual to be sexually harassing, it may still be unlawful'.

Sexual harassment can include:

- Comments about a person's sex life or physical appearance
- Comments of a sexual nature
- Suggestive behaviours such as leering and ogling
- Unnecessary physical intimacy such as brushing up against a person
- Physical contact such as touching or fondling
- 'Flashing' or sexual gestures
- Sexual propositions or repeated unwanted requests for dates
- Making promises or threats in return for sexual favours
- Sexual jokes, offensive telephone calls, displays of offensive photographs, reading matter or objects
- Sending jokes or graphics of a sexual nature by email or internet
- Unwelcome questioning about a person's private life
- Offensive computer screen savers
- Unwanted requests for sex
- Stalking, indecent assault or rape (which are also criminal offences).

Sexual harassment is not behaviour that is based on mutual attraction, friendship and respect. Where the interaction is consensual, welcome and reciprocal it will not amount to sexual harassment. However, judgements about what constitutes consensual, welcome and reciprocal interaction may be influenced by the relative power of the people involved. The capacity of persons in positions of authority to influence others and affect their well-being is a factor that will be taken into account in the management of any sexual harassment allegation.

At Foster Primary School sexual harassment and sex discrimination of any kind towards anyone is simply not tolerated, and will be taken seriously. This also applies to students who are engaging in that unacceptable behaviour towards staff.

Criminal offences

Sexual harassment may in certain circumstances constitute a criminal offence. A criminal offence of a sexual nature can include inappropriate touching and inappropriate verbal comments concerning people in the workplace and members of the public. Sexual harassment involving physical or indecent assault, stalking, making nuisance phone calls or the sending of obscene material using mail, e-mail or the internet, may be an offence under criminal law. Allegations of this nature must be reported to the police. The employer has a responsibility to deal with allegations even when the police are or have been involved, and to determine appropriate action in the context of the workplace. In relation to complaints involving staff, close liaison by the principal or manager with the Department's Conduct and Ethics Branch and the police is necessary at the outset to ensure that the police investigation is not interfered with or compromised in any way.

Allegations involving students

Sexual offences against children or young persons can have mandatory reporting implications, which require contact with the Department of Human Services. Teachers and others involved in the provision of education to students owe a duty of care to students to protect them from risks of injury which are reasonably foreseeable. More information on Student Critical Incident Advisory Unit may be accessed from the Department website: Student Incident and Recovery Unit (SIRU).

Roles and Responsibilities

The responsibilities of principals, teachers, school staff and school councilors include:

- modelling appropriate behaviour;

- monitoring the working environment to ensure as far as practicable that acceptable standards of conduct are maintained at all times and that sexual harassment is not tolerated;
- promoting awareness of the avenues for advice and the complaints procedures with respect to sexual harassment as set out in this policy;
- treating seriously complaints and behaviour which may constitute sexual harassment and taking immediate action;
- treating complaints of sexual harassment with appropriate confidentiality;
- ensuring that a person is not victimised for making, or being involved in, a complaint of sexual harassment;
- identifying an appropriate contact person to provide information and support to complainants or respondents (the contact person should not provide support to a complainant and a respondent involved in the same matter);
- referring to this policy in the school, student and staff codes of conduct and practice;
- where an allegation involves a student, ensuring that an appropriate network of support, guidance, counselling and liaison with parents/guardians is established in accordance with duty of care obligations.

Fairness

The principal or manager must ensure that every complaint is dealt with in a manner that is both procedurally and substantively fair. The principles of natural justice to be observed include:

- the right of each party to be heard;
- the right of each party to be treated fairly;
- the right of the respondent to have a witness or support person, who may be a union representative, present at any meetings;
- the right of the respondent to know the allegations made against him or her;
- the right of the respondent to respond to the allegation(s) made against him or her;
- the right of both parties to a decision-maker who acts fairly and in good faith.

Counselling

If at any stage throughout the procedure the complainant or respondent or any other person requires counselling, contact should be made with the Employee Assistance Program. The Program is confidential and employees can access it by contacting the provider.

Complaints

CONSEQUENCES IF THIS POLICY IS BREACHED

The procedures for dealing with allegations or instances of sexual harassment and possible consequences regarding any breach of this policy are dealt with in the [Guidelines for Managing Complaints, Unsatisfactory Performance and Misconduct](#). Where sexual harassment is found to be substantiated, the consequences for the person against whom the complaint is made will depend on a range of factors. The consequences may include an apology, counselling, undertaking training, or disciplinary action including dismissal.

Endorsed by School Council and effective as of: (insert date)