Preventing and responding to workplace sexual harassment

Model policy template – supporting [Preventing and responding to workplace sexual harassment (Directive 12/23)](https://www.forgov.qld.gov.au/employment-policy-career-and-wellbeing/directives-policies-circulars-and-guidelines/preventing-and-responding-to-workplace-sexual-harassment-directive-1223).

# Leadership statement

Everyone has the right to feel safe at work.

[Insert organisation] has a duty to provide a safe, respectful and inclusive workplace free of sexual harassment and discrimination. This policy communicates [Insert organisation]’s responsibility and commitment to ensure the prevention, response and management of sexual harassment in the workplace.

Sexual harassment means behaviour that contravenes section 119 of the *Anti-Discrimination Act 1991* (AD Act). Sexual harassment is unethical, unlawful and may be a criminal offence. Sexual harassment is unacceptable in any Queensland public sector workplace.

It is the responsibility of all employees to behave in a way that is respectful and inclusive and ensures the safety and well-being of others.

These expectations are outlined in:

* the Code of Conduct for the Queensland public service ([Code](https://www.forgov.qld.gov.au/employment-policy-career-and-wellbeing/public-service-values-and-conduct/public-service-code-of-conduct))
* [Chapter 2](https://www.legislation.qld.gov.au/view/html/inforce/current/act-2022-034#ch.2) (Equity, diversity, respect and inclusion) of the *Public Sector Act 2022* ([the Act](https://www.legislation.qld.gov.au/view/html/inforce/current/act-2022-034))
* managing the risk of psychosocial hazards at work: Code of Practice 2022 ([Code of Practice](https://www.worksafe.qld.gov.au/laws-and-compliance/codes-of-practice/managing-the-risk-of-psychosocial-hazards-at-work-code-of-practice-2022))
* [Preventing and responding to sexual harassment in the workplace (Directive 12/23)](https://www.forgov.qld.gov.au/employment-policy-career-and-wellbeing/directives-policies-circulars-and-guidelines/preventing-and-responding-to-workplace-sexual-harassment-directive-1223) (directive).

Under the Code, employees are required to report behaviour that could amount to wrongdoing, including conduct that is not consistent with the Code, where it is safe to do so.

[Insert organisation]:

* has an obligation to educate and support all employees to prevent, intervene early and respond to offensive behaviour
* acknowledges the significant impact of sexual harassment on employees who experience or witness it
* is committed to a person-centred approach when addressing allegations of sexual harassment
* is committed to ensuring leaders and managers will listen to, respect, empower and support employees who report allegations of sexual harassment and act to resolve concerns.

Under the *Human Rights Act 2019* (HR Act) [insert organisation] has an obligation to act and make decisions that consider and are compatible with human rights. When making decisions or acting under this policy, managers and decision-makers must comply with human rights obligations.

# Application

This policy applies to all [insert organisation] workers, including:

* permanent, fixed term temporary, full-time, part-time or casual employees
* anyone who works in any other capacity for [insert organisation] including volunteer workers and contractors.

It applies to employees in all their work-related dealings with each other and with customers, contacts or clients.

It applies to employees while:

* in the workplace or when working off site
* at work-related functions (including social functions and celebrations)
* on work-related travel or
* attending conferences.

# Authority

This policy has been approved by the Director-General/Chief Executive of [insert agency] and is consistent with the following legislation and codes:

* [Preventing and responding to workplace sexual harassment (Directive 12/23)](https://www.forgov.qld.gov.au/employment-policy-career-and-wellbeing/directives-policies-circulars-and-guidelines/preventing-and-responding-to-workplace-sexual-harassment-directive-1223)
* [*Public Sector Act 2022*](https://www.legislation.qld.gov.au/view/html/inforce/current/act-2022-034)
* [Code of Conduct for the Queensland Public Service](https://www.forgov.qld.gov.au/__data/assets/pdf_file/0024/182292/code-of-conduct.pdf)
* [*Work Health and Safety Act 2011*](https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-2011-018)
* [*Managing the risk of psychosocial hazards at work: Code of Practice 2022*](https://www.worksafe.qld.gov.au/__data/assets/pdf_file/0025/104857/managing-the-risk-of-psychosocial-hazards-at-work-code-of-practice.pdf)
* [*Anti-Discrimination Act 1991*](https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-1991-085)
* [*Industrial Relations Act 2016*](https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-1991-085)
* [*Human Rights Act 2019*](https://www.legislation.qld.gov.au/view/pdf/asmade/act-2019-005)
* [*Crime and Corruption Act 2001*](https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-2001-069)
* [*Public Interest Disclosure Act 2010*](https://www.legislation.qld.gov.au/view/pdf/2017-03-01/act-2010-038)
* [*Criminal Code Act 1899*](https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-1899-009)

# Effective date [insert date]

# Responsibilities

All employees have a responsibility to treat each other with respect and dignity and have the right to work without being subjected to sexual harassment.

Employees must:

* model the Code and [insert organisation ’s or the Queensland Government] values, including behaving 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 and specialist referral services
* offer support to sensitively communicate with colleagues who have experienced sexual harassment, maintain their confidentially and encourage them to seek assistance
* report sexual harassment through the channels outlined within this policy
* support those who have experienced sexual harassment to report it through the channels outlined within this policy
* 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.

**Managers and supervisors** will:

* model the Code and [insert organisation ’s or the Queensland Government]’s values and behave in a way that promotes a safe, respectful and inclusive workplace free from sexual harassment and discrimination
* inform employees about unacceptable behaviours that enable or condone sexual harassment
* identify and address inappropriate behaviours and advocate for zero tolerance of sexism
* monitor the workplace to ensure acceptable standards of conduct
* treat 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 employees who report alleged sexual harassment
* ensure employees who report alleged sexual harassment, lodge grievances or witness sexual harassment are not victimised or discriminated against
* ensure employees who report alleged workplace sexual harassment are advised of their rights and obligations under the PID Act and *Crime and Corruption Act 2001* (CC Act)
* seek advice and support for the management of complex or serious matters from areas such as Human Resources, Ethical Standards, Professional standards or legal advisers. [option to include organisation specific information]
* promote and implement this policy in their work area and within their team.

**Chief executives** will:

* model the Code and [insert organisation ’s or the Queensland Government]’s values and behave in a way that promotes a safe, respectful and inclusive workplace free from sexual harassment
* provide and maintain safe and inclusive workplaces that protect the health and safety of employees
* 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 [insert organisation]’s operations and workforce context
* consult with employees and their representatives about sexual harassment related health and safety issues such as through the agency work health and safety committee or agency consultative committee
* use appropriate resources, control measures (e.g. training) and processes to address sexual harassment risks
* ensure employees who report alleged workplace sexual harassment are advised of their rights and obligations under the PID Act and CC Act
* use person-centred practices and prioritise the care and support of impacted employees in [insert organisation]’s approach to resolving sexual harassment issues.

Human resources and/or ethical standards practitioners must:

* support impacted employees and ensure they have had input into their preferred way for issues to be managed
* promote this policy and resources to support:
	+ employees who report alleged sexual harassment (the complainant)
	+ managers or supervisors managing sexual harassment matters
	+ employees 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 employees:
	+ who report alleged sexual harassment
	+ identified as respondents to alleged sexual harassment
* ensure that any response to sexual harassment is managed in line with agency policies and employment directives.

# Policy

**Recognising sexual harassment**

As defined by s119 of the AD Actsexual harassment happens if a person:

* 1. subjects another person to an unsolicited act of physical intimacy. For example: physical contact such as patting, pinching or touching in a sexual way, or unnecessary familiarity such as deliberately brushing against a person
	2. makes an unsolicited demand or request (whether directly or by implication) for sexual favours from the other person. For example: sexual propositions
	3. makes a remark with sexual connotations relating to the other person. For example: unwelcome and uncalled for remarks or insinuations about a person’s sex or private life, or suggestive comments about a person’s appearance or body
	4. engages in any other unwelcome conduct of a sexual nature in relation to the other person.
	5. and the person engaging in the conduct described in paragraphs (a), (b), (c) or (d) does so:
		1. with the intention of offending, humiliating, or intimidating the other person; or
		2. in circumstances where a reasonable person would have anticipated the possibility that the other person would be offended, humiliated, or intimidated by the conduct.

[Insert organisation]’s workplace extends beyond physical workspaces or worksites. Sexual harassment may occur in the workplace or in work-related locations, including client sites or public spaces where [insert organisation] work is conducted.

It may also occur outside of normal working hours at work-related events such as at conferences, social events and business trips. It may also occur through different mediums such as text messaging, face to face, email or social media.

**Preventing sexual harassment**

Preventing sexual harassment is everyone’s responsibility. [Insert organisation] is committed to building and maintaining a positive workplace culture, free of sexual harassment and discrimination and promoting gender equality, which is part of our positive duty under the WHS Act and the Act.

Current prevention activities within [insert organisation] include [list all current prevention activities. Some options for consideration are listed below]:

* The diversity and inclusion network meets regularly and is working to promote and develop an inclusive, diverse and equitable workplace.
* As part of the commencement of the sexual harassment directive and this policy [insert agency] will be providing development for all employees in preventing sexual harassment and respectful workplaces. This training will be available for employees by 1 July 2024. Additional training for leaders, HR practitioners and Ethical standards employees will also be available by 1 July 2024.
* For more information about these programs please visit our sexual harassment prevention intranet information [insert link].

**Support options**

As an organisation we are committed to supporting employees who have reported alleged sexual harassment. This includes informing complainants of their rights and options to report concerns formally or informally with the agency, or through external pathways as outlined later in this document.

Support and regular communication will be provided through any resolution or investigation process.

Current support activities within [insert organisation] include [list all current support options].

**Agency contacts**

[Include any internal agency contacts and support options relevant, including HR department, sexual harassment referral officers, mental health support officer or similar.]

**Counselling support services**

[Insert organisation] offers [name of employee assistance service (EAS)], to all employees and their immediate family members. The EAS offers free and confidential support services through face-to-face, telephone and online counselling.

EAS can also provide specific advice to managers about how best to support employees who have experienced sexual harassment, through the manager assist service.

**Reporting incidents of sexual harassment**

As outlined in the directive, there are internal and external avenues open to employees to take action about workplace sexual harassment.

A complainant may choose to follow any of the options listed below and is not limited to one option.

The complainant’s preference about the most appropriate option or action to address the behaviour will depend on their individual circumstances. Within [insert organisation] the options available to take action on sexual harassment include:

[list all options available within the agency including, but not limited to, the following options.]

* addressing the behaviour through self-management or local action
* making an individual employee grievance
* external pathways.

**Addressing the behaviour through self-management or local action**

**Self-management**

If a complainant believes they are experiencing sexual harassment or have witnessed sexual harassment, and feels comfortable to do so, they may take steps to deal with the behaviour themselves. This may include talking directly to the other person, drawing attention to the specific behaviour, and asking the person to stop.

Where a complainant chooses to deal with the behaviour directly, the complainant should keep a record of what happened, when and where it happened, who was involved and anything else that believe may be important. This record will be relevant should the behaviour continue, and the employee proceeds with any of the options outlined below.

**Local action**

A complainant may seek the support of their manager or any other appropriate person within [insert organisation] in dealing with the behaviour. This may include asking a person to be present during a conversation with the respondent, to facilitate the conversation, or asking them to speak with the other person on their behalf. A complainant may seek support from a senior manager rather than their direct manager if this is a more appropriate support option.

While the complainant may ask the manager to only deal with the behaviour through local action, managers have an obligation to deal with any wrongdoing they are made aware of. In some cases, further action may be required, even where the complainant has stated they do not want any further action to be taken. This may be the case in situations where the behaviour can be classified as a work health and safety risk or requires disciplinary action to be taken. The manager will work with the complainant to take their views into account and keep communicating with them if further action needs to be taken.

**Making an individual employee grievance**

Where a complainant isn’t comfortable dealing with the behaviour directly or with the assistance of another person, they may choose to make an individual employee grievance.

A complainant who makes a grievance, will be given the opportunity to identify the resolution they consider appropriate. [Insert organisation] will consider this in deciding how to best manage and resolve the concerns. This may involve less formal outcomes, such as the other person being spoken to about stopping the behaviour or other appropriate management action. Where possible, [insert organisation] will explain its reasons if it does not handle or resolve the matter in the way the complainant requested.

As outlined in [clause 9.3 of the directive](https://www.forgov.qld.gov.au/employment-policy-career-and-wellbeing/directives-policies-circulars-and-guidelines/preventing-and-responding-to-workplace-sexual-harassment-directive-1223#directions), a complainant who lodges an individual employee grievance for sexual harassment matters, writes directly to the chief executive or the relevant delegate of the department. The complainant is not required to have attempted to resolve the matter in any way in the first instance.

[Insert organisation] will consult with the complainant on how they wish the matter to be resolved, including whether their complaint could constitute a public interest disclosure under the PID Act or corrupt conduct under the CC Act and provide a decision about the grievance within 14 days of receiving it.

[Include any other agency specific reporting options, including options to lodge anonymously, through WHS reporting mechanisms or similar].

**External pathways**

As outlined by the directive, a complainant may also choose to lodge concerns about sexual harassment to external organisations.

External organisations that are responsible for sexual harassment complaints are:

* The Queensland Industrial Relations Commission (QIRC)
* The Queensland Human Rights Commission (QHRC)
* Crime and Corruption Commission (CCC)
* Optional, Queensland Police Service (where the conduct, such as sexual assault could or does constitute a criminal offence).

Complainants may:

* lodge an [industrial dispute](https://www.qirc.qld.gov.au/industrial-matters) with the QIRC
* make a complaint to the QHRC about [sexual harassment](https://www.qhrc.qld.gov.au/your-rights/sexual-harassment) (within 12 months of the alleged conduct occurring)
* also if required, apply to the QIRC for an order to protect an employee’s [interests](https://www.qirc.qld.gov.au/anti-discrimination-and-bullying)
* ask the [QIRC](https://www.qirc.qld.gov.au/anti-discrimination-and-bullying) for help if the QHRC can’t resolve your complaint or the QHRC hasn’t actioned your complaint after 6 months.

**Responding to incidents of sexual harassment**

When an employee reports alleged sexual harassment, [insert organisation] will ensure the employee is supported and their wishes are considered when deciding about how to manage the issue. [Insert organisation] will respect the employee’s wishes and best interests as far as possible, however it may not solely determine the organisation’s response or the outcome.

Reported allegations of sexual harassment will be taken seriously, with a focus on supporting the complainant. [Insert organisation] may take interim action to ensure the ongoing health and safety of all employees. Any actions taken will be supportive and sensitive. [Insert organisation] will make every effort to ensure the safety of the complainant in the workplace. Where possible, [insert organisation] will relocate the alleged respondent before relocating the complainant, unless the complainant requests different safety measures.

Throughout the course of resolving the issues, [insert organisation] will communicate regularly with the complainant and their union, if they advise they are represented by a union.

**Possible outcomes**

Where issues can’t be dealt with informally an investigation or possible discipline action will be considered.

**Consequences for responsible employees**

As outlined in section 10 of the directive [link when published] where allegations of sexual harassment are substantiated, the chief executive will take action that is consistent and proportionate for the allegations that are substantiated. The possible outcomes will also depend on whether an informal resolution or a formal grievance was preferred by the complainant. The directive lists possible outcomes for the responsible employees, including action that may result if serious allegations of sexual harassment are substantiated.

# Confidentiality and disclosure

The details surrounding sexual harassment issues will be kept confidential. Only those who are involved in resolving or preventing further incidents should be made aware of the complaint and response.

On occasion, a complainant may ask to limit who is aware of the information about alleged sexual harassment. This may not always be possible, particularly when:

* the issues are serious
* involve a senior leader in the organisation
* there are safety risks to others
* [insert organisation] has a legislated obligation to report the alleged sexual harassment to another entity.

**Outcome advice**

[Insert organisation] recognises the positive impact on complainants when the outcome of grievance processes is known.

The directive requires organisations to advise a complaint of the outcome of a grievance process.

Complainants can request advice on the outcome of management action taken and the outcome of any discipline process arising from the grievance. [insert organisation] will provide this information and the complainant must keep it confidential. However, the complainant may disclose it:

* if required by law
* to an immediate family member, support person, union representative or confidential counsellor, provided that any such person agrees to keep the information confidential.

# Definitions

Unless otherwise defined, the terms in this policy have the meaning set out in the *Public Sector Act 2022*.

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| --- | --- |
| Corrupt conduct | *In the context of sexual harassment, section 15 of the Crime and Corruption Act 2001 defines corrupt conduct as conduct by anyone that adversely affects the performance of functions or exercise of powers of an individual or department and results in the performance of functions or the exercise of power that:** *is not honest or impartial*
* *knowingly or recklessly breaches trust placed in a person holding an appointment*
* *involves a misuse of information or material acquired in connection with work.*
* *If proved, it would be a criminal offence, or a result in a disciplinary breach providing reasonable grounds for terminating a person’s services.*

*Corrupt conduct also involves specific types of conduct that impairs, or could impair, public confidence in public administration.**For example, sexual harassment committed by a senior departmental official may be corrupt conduct if it adversely affects the exercise of powers of the individual, knowingly breaches trust placed in a person holding an appointment and is a criminal offence.* |
| *Person-centred* | *A person-centred approach to responding to sexual harassment involves the individual being at the centre of decision-making and having control, as much as possible, over the actions/services they receive.**See: (*[*Person centred approaches to workplace sexual harassment |*](https://www.respectatwork.gov.au/organisation/response/support/person-centred-approaches-workplace-sexual-harassment)[*Respect@Work (respectatwork.gov.au)*](https://www.respectatwork.gov.au/organisation/response/support/person-centred-approaches-workplace-sexual-harassment)*.* |
| *Public Interest Disclosure*  | *Chapter 2 of the Public Interest Disclosure Act 2010 (PID Act) defines a public interest disclosure as the disclosure, in the public interest, of information about wrongdoing in the public sector.**This can include information about:** *a substantial and specific danger to the health and safety of a person with a disability*
* *an offence or contravention of legislation that would cause a substantial and specific danger to the environment*
* *reprisal because of a belief that a person has made or intends to make a public interest disclosure*
* *corrupt conduct*
* *maladministration that adversely affects a person’s interest in a substantial and specific way*
* *a substantial and specific danger to public health or safety*
* *a substantial and specific danger to the environment.*
 |
| *Trauma Informed Support* | *Trauma informed support recognises and acknowledges the impact of distress experienced by an employee and focuses on an understanding of the elements necessary to support the employee’s recovery.**Some key principles to consider in providing trauma informed support include, but are not limited to:****Safety*** *– employees should be made to feel physically and psychologically safe. Personal interactions should be conducted in a way that promotes a sense of safety and do not trigger further trauma.****Trust and transparency*** *– decisions should be made openly and transparently and with the goal of building trust. Clear expectations of what support is available to employees should be communicated.****Collaboration*** *– power differences between employees and managers should be levelled to support shared decision making and healing.****Empowerment*** *– employee’s strengths should be built upon and validated, including a belief in resilience and the ability to heal from trauma.****Choice*** *– every employee’s experiences are unique and managing them requires an individual approach.*See: [Trauma informed practice | Mental Health Australia (mhaustralia.org)](https://mhaustralia.org/general/trauma-informed-practice#:~:text=Trauma%20Informed%20Practice%20is%20a,well%20as%20respect%20for%20diversity.) |