Sexual Harassment Policy & Procedure

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Update April 2013
**PURPOSE:**

St Peter’s College regards sexual harassment as a serious breach. The School supports the rights of individuals to be free from sexual harassment while engaged in activities undertaken as part of their employment, or in other associations with the School.

As an educational institution and an employer, the School will take all reasonable steps to eliminate sexual harassment of or by staff, students, or other members of the School community.

The purpose of this policy is to articulate the School's commitment to the elimination of sexual harassment.

The School aims to create a positive, equitable environment in which all staff are treated fairly and with respect and dignity. It is committed to providing an environment where staff can work effectively without fear of harassment.

**SCOPE:**

This policy and procedure will cover all staff at St Peter’s College.

**ALIGNMENT TO SCHOOL STRATEGIC PLAN:**

Towards a Preferred Future – A Strategic Plan for St Peter’s College 2011 – 2014 underpins this policy & procedure.

**REFERENCES:**

- The Sex Discrimination Act 1984 (Commonwealth)
- The Equal Opportunity Act 1984 (South Australia)
- Fair Work Act 2009
- St Peter’s College Grievance Policy & Procedure

**POLICY:**

St Peter’s College is committed to maintaining an environment within the School that is free from sexual harassment.

- Sexual harassment is unacceptable behaviour. It conflicts with the School’s Values and denies respect for the rights of staff to fair treatment.
- Sexual harassment is a serious issue which undermines morale and can adversely affect the ability of staff to effectively undertake their responsibilities.
DEFINITION:

St Peter’s College is committed to taking action to deter sexual harassment, to increase awareness that such behaviour is unacceptable and to ensure that complaints are dealt with fairly and promptly.

In an effort to deter sexual harassment, the School will inform staff of the policy and procedure and its contents. New staff members will be issued with a copy of the policy during their induction training. Existing staff members will be made aware of the policy via the School’s Information Portal - Keystone and staff will be asked to familiarise themselves with the policy and its contents.

Sexual harassment and victimisation is unlawful under the Sex Discrimination Act 1984 (Cth) as well as anti-discrimination legislation operating in every State and Territory. Unless the School has taken all reasonable steps to prevent an employee from committing acts of sexual harassment or victimisation in connection with his or her employment, the School is vicariously liable for that conduct.

The Federal Sex Discrimination Act 1984 defines in detail actions which amount to sexual harassment: Unwelcome activity of a sexual nature in the workplace is classified as sexual harassment under the law. Sexual conduct is unwelcome when the conduct is not invited or solicited by the employee and the employee regards the conduct as undesirable or offensive.

Sexual harassment is also defined as unwelcome sexual behaviour or sexual innuendo that has the effect of offending, intimidating or humiliating a person in circumstances, which a reasonable person having regard to all the circumstances would have anticipated that the person harassed, would be offended, humiliated or intimidated.

Sexual harassment may be explicit or implicit. It may be a single incident or occur over a period of time. In defining and identifying sexual harassment it is the effect of the behaviour that is relevant, not the intent. It is the impact of the behaviour on the receiver that determines whether sexual harassment has occurred.

Unwelcome sexual conduct occurs when:

- Acceptance or rejection of the conduct is used to make employment decisions (hiring, promotion, work assignments, or pay increases) that affect the person claiming harassment.
- The conduct has the purpose or effect of unreasonably interfering with the employee’s job performance.
- The conduct creates an intimidating, hostile or offensive work environment (referred to as a sexually permeated work environment).

Unwelcome sexual conduct can be identified:

- If a complaint / protest is made at or near the time the sexual conduct occurs.
- Even if an employee delays making a complaint, as some employees will attempt to personally resolve the situation, resorting to a complaint only in the event of more persistent and forceful conduct.
- If an employee, who initially participated in sexual conduct tells another employee that any further sexual conduct is unwelcome but the conduct
Sexual harassment continues to occur. For example, the past use of sexual innuendo cannot be used to show that an employee should never be offended by sexual comments or that such sexual conduct is generally unwelcome.

- Even if an employee does not resist the sexual advances of another employee, it cannot be interpreted that sexual conduct is welcome. For example, an employee may voluntarily participate in unwelcome sexual conduct fearing loss of employment if sexual advances are rejected.

Sexual harassment may consist of any of the following:

- Physical contact such as kissing, patting, pinching or touching in a sexual way, unnecessary familiarity such as deliberately brushing against a person or putting an arm around another person’s body.
- Unwelcome remarks or insinuations about a person's sex or private life.
- Suggestive comments about a person’s appearance or body.
- Gender-based insults.
- Sexual propositions.
- Persistent request for dates.
- Sexual jokes, abusive language, innuendos, offensive telephone calls, displays of obscene or pornographic photographs, pictures, posters, reading matter or objects.
- Attempts at sexual intercourse.

An employee could be sexually harassed by:

- a supervisor;
- a manager;
- a co-worker;
- a contractor;
- a service provider; or
- client.

Sexual harassment does not have to take the form of overt sexual advances or suggestions; it may consist of abusive treatment, acts of aggression, intimidation, hostility, rudeness, name-calling, or other types of abusive conduct directed towards one gender. Such conduct can give rise to a breach of the legislation.

While Australian courts and tribunals vary in their views as to whether a single act can constitute sexual harassment, it is clear that in certain circumstances a single act, if of a sufficiently serious nature, can constitute sexual harassment. For example, a single sexual advance by a manager may constitute sexual harassment if it is linked to granting or denying job benefits. In contrast, conduct which results in a hostile or sexually permeated work environment usually requires a pattern of offensive conduct. It is noted that one incident, if not checked, could be the start of a campaign of sexual harassment.

Sexual harassment does not refer to behaviour that is mutually acceptable to the parties involved. Friendships (whether sexual or otherwise) are a private
In establishing appropriate standards of behaviour the School recognises:

- social or cultural backgrounds may lead people to perceive the same conduct differently
- some people may accept, as reasonable, a behaviour that other people find offensive
- sexual harassment can arise where different values and beliefs are not respected
- both men and women may be sexually harassed by a person or persons of the same or opposite gender
- appropriate behaviour is behaviour which respects the rights and sensitivities of all people in the School environment
- all individuals have a responsibility to contribute towards an environment of trust and respect which forms the basis of appropriate professional relationships.

PROCEDURE:

Sexual Harassment by an Employee

Under Federal legislation an employee who considers that he or she has been subject to sexual harassment from another employee may register a complaint with the employer and the employer is required to take appropriate action. This may involve disciplinary action, up to and including dismissal, being taken against the harasser.

Complaints Procedure

A member of staff at St Peter’s College who considers that he or she has been sexually harassed by another employee, and believes the matter cannot be resolved on a one-to-one basis, is encouraged to:

- Discuss the matter with a nominated contact person, or
- Refer the matter directly to the Headmaster or his delegate.

The contact person may:

- Resolve the matter informally with the complainant,
- Initiate, at the complainant’s request, a mediation process between the parties (in these circumstances the contact person will keep the Headmaster or his delegate informed), and
- Advise the complainant to refer the matter on to the Headmaster or his delegate.

The Headmaster or his delegate, on receiving a formal complaint in writing, will act in accordance with the School’s Internal Grievance Procedures.

Sexual Harassment by a Student

The School will treat as a very serious disciplinary matter any incident of sexual harassment directed towards a staff member by a student.

Complaints Procedure
A teacher who considers that he or she has been sexually harassed by a student, and believes the matter cannot be resolved on a one to one basis, is encouraged to:

• Refer the matter directly to the Head of the Senior School / Head of Junior School.
  (the teacher may wish to discuss the matter with a contact person beforehand and/or bring a contact person to the meeting).

A support staff member, in similar circumstances, is encouraged to:

• Refer the matter to the Manager in the area of work, or
• Refer the matter directly to the Head of Senior School or the Head of Junior School.
  (the support staff member may wish to discuss the matter with a contact person beforehand and/or bring a contact person to the meeting).

The complainant will be informed of the disciplinary action taken against the student(s).

The Head of Senior School or the Head of Junior School will assess the need for ongoing support for the complainant.

Why have Contact Officers?

It is unlawful for anyone to be treated unfairly on the basis of age, sex, marital status, pregnancy, sexuality, impairment or race. Sexual harassment or ensuing victimisation is also unlawful. St Peter’s College aims to provide a positive working environment where all staff are treated with respect. The Contact Officers include a wide range of trained people who can support staff who feel they have been subject to discrimination.

What is a Contact Officer?

A Contact Officer is a member of staff who can:

• Provide an initial port of call if there is a workplace harassment issue staff would like to discuss.
• Listen to staff concerns whilst maintaining confidentiality.
• Help staff understand the Equal Opportunity Act and the School’s policy on harassment.
• Discuss options for resolving the issue.
• Help staff resolve the issue informally or help staff decide whether to take the matter further.
• If requested, be supportive in a mediation process.
• Raise awareness about discrimination in the workplace by reporting statistics to the Director of Human Resources.

Who can I contact:

Staff may contact any of the people listed below. It does not have to be a person in the staff member’s work area.

Colin Becker
David McShane
Di Harvy
Pauline Jackson
CONSEQUENCES

Sheryle Yorston

Consequences for breaches of this policy

St Peter’s College will treat all allegations of sexual harassment seriously and impartially. The consequences for breaching this policy will depend on the seriousness of the case. Outcomes may include, but are not restricted to the following:

- Gaining a commitment from one or more persons to cease, and not to repeat, the behaviour.
- Making an apology to the affected person or persons.
- Providing mediation between the parties, if both parties agree to mediation process and to the mediator.
- Providing targeted training regarding prevention of unacceptable workplace behaviours.
- Offering support to the person making the compliant.
- Offering support to the person against whom the complaint is made.
- Referral of the matter to the South Australian Police.
- Disciplinary action, up to and including dismissal, suspension or expulsion, against the person found responsible for sexual harassment in cases of serious misconduct.
- Disciplinary action up to and including dismissal, suspension or expulsion, against the person making a complaint of sexual harassment if, after investigation, the complaint is found to have been malicious or vexatious.

Disciplinary action may be taken against anyone who victimises or retaliates against a person who has made a complaint.

RESPONSIBILITIES:

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<th>Role</th>
<th>Responsibility</th>
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<tr>
<td>Headmaster</td>
<td>The School has a legal responsibility to prevent sexual harassment, otherwise it will be held liable for the behaviour of its employees. Receive and investigate complaints referred directly to him in accordance with the Grievance Procedure. Keep abreast of complaints not referred directly to him.</td>
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<tr>
<td>SLT Member</td>
<td>Receive and investigate complaints referred directly to him or her in accordance with the Grievance Procedure. Enlist the assistance of a Contact Officer or HR representative if required.</td>
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<tr>
<td>Direct Manager</td>
<td>If a director of manager causes, instructs, induces aids or permits an employee to commit sex-based discrimination, that director or manager will be personally liable under the Sex Discrimination Act as if they committed the discrimination. Receive and investigate complaints referred directly to him or her in accordance with the Grievance Procedure. Enlist the assistance of a Contact Officer or HR representative if required.</td>
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<td>Staff Member</td>
<td>Employees are responsible for: • Complying with the School’s sexual harassment policy; • Offering support to anyone being harassed; and • Maintaining complete confidentiality if they provide information during an investigation of a</td>
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# SEXUAL HARASSMENT POLICY & PROCEDURE

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<th>complaint. If unable to resolve the matter on a one-to-one basis, the staff member is encouraged to discuss the matter with a nominated contact person, an SLT member or the Headmaster.</th>
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| Contact Officers | • Provide an initial port of call when there is a workplace harassment issue staff would like to discuss.  
• Listen to staff concerns whilst maintaining confidentiality.  
• Help staff understand the Equal Opportunity Act and the School’s policy on harassment.  
• Discuss options for resolving the issue.  
• Help staff resolve the issue informally or help staff decide whether to take the matter further.  
• If requested, be supportive in a mediation process.  
• Raise awareness about discrimination in the workplace by reporting statistics to the Director of Human Resources. |
| Human Resources | Provide advice and support to staff members, Contact Officers and Managers in relation to sexual harassment complaints or inappropriate behaviour identified as sexual harassment. |

**COMMUNICATION:**

The Director of Human Resources is responsible for promulgating this policy and procedure to all relevant staff.

This policy and procedure will be available on the School’s Information Portal - Keystone.