

Sexual Harassment Policy & Procedure

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SEXUAL HARASSMENT POLICY & PROCEDURE

POLICY OWNER: Human Resources

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:

Our Preferred Future – A Strategic Plan for St Peter's College 2015 – 2018 underpins this policy & procedure.

ALIGNMENT TO SCHOOL'S VISION & VALUES

Our vision is to be a world-class school where all boys flourish. Our Core Values underpin this policy and procedure:

- Building lifelong commitment to serve others.
- Building leadership capability.
- Celebrating the uniqueness of every boy.
- Celebrating accomplishment.
- Developing emotional maturity.
- Developing lifelong learning, engagement, meaning, and purpose.
- Embracing creative potential.
- Fostering honesty, integrity, and wellbeing.'
- Honouring diversity.
- Valuing teamwork, collaboration, and communication.
- Unlocking individual virtues and strengths.

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

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treatment.

- Under the South Australian Equal Opportunity Act (1984) and the Commonwealth Sex Discrimination Act (1984), sexual harassment in employment is unlawful.
- Sexual harassment is a serious issue which undermines morale and can adversely affect the ability of staff to effectively undertake their roles within the School.

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 System - 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.

DEFINITION:

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

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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 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.

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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 concern.

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 Human Resources, or
- Refer the matter directly to the Headmaster or his delegate.

Human Resources 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.

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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.

Should a child or young person engage in inappropriate behaviour of a sexual nature, then immediate respectful steps must be taken to discourage the child or young person. The matter should be reported and documented promptly with the Headmaster or his delegate and a plan of action developed to support the child or young person and relevant staff member. Depending on the age/developmental capacity of the child or young person and contextual information, this plan of support may involve:

- Communication with parents
- Referral to and liaison with specialist counselling
- Formalised support at School, which may include closer monitoring or supervision of the child or young person in his interactions with other children and young people
- Referral to and liaison with an appropriate agency with disability-specific expertise.

Sometimes, the inappropriate sexual behaviour of younger children towards staff can elicit a suspicion that the child in question has been sexually abused. In these situations, staff must:

- Make a mandatory notification to the Child Abuse Report Line on 131 478
- Consider the safety of other children and young people with whom the child has contact
- Develop and document a plan of action and communication with all relevant parties (including other agencies).

Some children and young people may actively seek a relationship with a staff member that would constitute an inappropriate relationship. In such circumstances, staff are advised to immediately report the information to the Headmaster or his delegate and seek assistance from a senior staff member or School counsellor or pastoral care provider to actively manage the situation in a way that respects the emotional wellbeing of the child or young person and provides support to the staff member.

Examples of behaviours that should be reported and addressed are:

- Receiving gifts of an inappropriate nature or at inappropriate times (eg not as part of end of the year gift giving that some children and families follow)
- Flirtatious gestures and comments
- Inappropriate social invitations
- Inappropriate touching or invasions of personal space
- Inappropriate postings on any medium
- Correspondence or communications that suggests or invites an inappropriate relationship.

The staff member and the Headmaster, or his delegate, should document the incident that initially prompted the concern and the plan of action that has been established. Contact with parents is recommended unless there are reasonable grounds to believe that this will create serious risk for the child or young person.

Sexual harassment – via any medium (includes postings on websites, whether private or not) at any time or place – or assault of a staff member by a child or

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young person should be dealt with following normal behaviour management protocols, with the involvement parents and where appropriate, police. Along with this response, consideration must also be given to the most appropriate counselling and support that can be provided to the child or young person and family. It is important to use these incidents as opportunities to organise meaningful interventions that address early sexual and other offending behaviours.

Detailed guidance on managing problem sexual behaviours in children and young people is available in the document *Responding to problem sexual behaviour in children and young people – Guidelines for staff in education and care settings (DECS 2010)*

Complaints Procedure

A staff member 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 staff member may wish to bring a support 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.
- Refer the matter to Human Resources

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.

Who can provide support?

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. Human Resources staff can support staff who feel they have been subject to discrimination.

What support can Human Resources provide?

- 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.

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CONSEQUENCES

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 complaint.
- 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:

Headmaster	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.
SLT Member	Receive and investigate complaints referred directly to him or her in accordance with the Grievance Procedure. Enlist the assistance of a HR representative if required.
Direct Manager	If a manager causes, instructs, induces aids or permits an employee to commit sex-based discrimination, that 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 HR representative if required.
Staff Member	Employees are responsible for: <ul style="list-style-type: none"> • Complying with the School's sexual harassment policy; • Offering support to anyone being harassed; and

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	<ul style="list-style-type: none"> Maintaining complete confidentiality if they provide information during an investigation of a complaint. <p>If unable to resolve the matter on a one-to-one basis, the staff member is encouraged to discuss the matter with an SLT member, Human Resources or the Headmaster.</p>
Human Resources	<ul style="list-style-type: none"> 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 collecting statistics . Provide advice and support to staff members 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 System-Keystone.

POLICY HISTORY:

HISTORY	
Date Approved	Amendments made (summary of major changes)
November 2009	Policy created
April 2013	Policy revised to include reference to School Strategic Plan, Vision & Values
April 2015	Policy revised as per recommended amendments form the Child Protection Policy Desk Audit conducted in November 2014.

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