



CATHOLIC ARCHDIOCESE OF MELBOURNE

Sexual Harassment Policy

22 April 2015

Purpose

The purpose of this policy is to promulgate the Archdiocese's Sexual Harassment Policy and procedures to be followed by parishes and diocesan agencies.

This policy is not a term of any contract, including any contract of employment. This policy may be varied by the Archdiocese from time to time.

Background

Sexual harassment is unlawful behaviour under the Commonwealth *Sex Discrimination Act 1984* and the Victorian *Equal Opportunity Act 2010*. It is an abuse of power and is not tolerated in parishes and diocesan agencies.

Application

This policy applies to all people in the workplace including staff (including priests, deacons, brothers, sisters, seminarians, employees, volunteers, contractors, agents and clients of the Archdiocese) while at any parish or diocesan agency within the Catholic Archdiocese of Melbourne and/or engaged in any work-related activity connected with such a workplace.

Every person in the workplace is responsible for maintaining a working environment free from sexual harassment and is liable for his or her actions if sexual harassment occurs.

Agency heads and the parish priest/administrator of a parish have roles and responsibilities under this policy to see that this policy is applied.

Prohibition of sexual harassment

All people to whom this policy applies are prohibited from engaging in sexual harassment in relation to any other person while at the workplace and/or engaged in any work-related activity.

This prohibition applies to all at a common workplace. It is irrelevant whether each person is an employer, an employee or neither. If they are employees, it is irrelevant whether their employers are the same or different.

Definition

The Victorian *Equal Opportunity Act 2010* addresses sexual harassment in Part 6. Section 92 (1) provides: "*a person sexually harasses another person if he or she –*

- *makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the other person; or*
- *engages in any other unwelcome conduct of a sexual nature in relation to the other person –*

in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated".

Section 92(2) provides: "*conduct of a sexual nature includes –*

- *subjecting a person to any act of physical intimacy;*
- *making, orally or in writing, any remark or statement with sexual connotations to a person or about a person in his or her presence;*
- *making any gesture, action or comment of a sexual nature in a person's presence."*

Similar provisions apply under the Commonwealth *Sex Discrimination Act 1984*, where sexual harassment is defined as a person:

- making an unwelcome sexual advance or an unwelcome request for sexual favours; or
- engaging in other unwelcome conduct of a sexual nature

in circumstances in which a reasonable person (having regard to all the circumstances), would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

The test for 'having regard to all the circumstances' includes (but is not limited to):

- the sex, age, marital status, sexual preference, religious belief, race, colour, or national or ethnic origin, of the person harassed;
- the relationship between the person harassed and the harasser;
- any disability of the person harassed; and
- any other relevant circumstance.

Sexual harassment can also amount to discrimination on the grounds of gender under both the Commonwealth and State legislation.

Sexual harassment can be physical, verbal or visual and may include statements or transmissions by phone, fax, email or any of the social communications media.

Sexual harassment may be explicit, or more subtle. It may include:

- comments about a person's sex life or physical appearance;
- comments or gestures 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;
- 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, internet or fax;
- unwelcome questioning about a person's private life;
- offensive computer screen savers;
- stalking, indecent assault or rape (which are also criminal offences).

In summary, sexual harassment is behaviour of a sexual nature that is uninvited, unreciprocated and unwelcome.

Roles and responsibilities

The responsibilities of agency heads/parish priests include:

- complying with the Archdiocese's Sexual Harassment Policy;
- 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;
- treating seriously complaints and behaviour which may constitute sexual harassment and taking appropriate steps in response to such complaints;
- 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;

All staff have a responsibility to:

- comply with the Archdiocese's Sexual Harassment Policy;
- model appropriate behaviour;
- treat information in relation to sexual harassment allegations with appropriate confidentiality;
- report observations of sexual harassment;
- ensure that a person is not victimised for making or being involved in, a complaint of sexual harassment.

Consequences for breach of policy

Where a person is found to have breached any of his or her obligations under this policy, disciplinary action may be taken. This may include the termination of his or her employment.

What can you do if you are being sexually harassed?

Complainants are encouraged to use the internal processes to address concerns regarding sexual harassment, but are free to refer the matter to an external body such as the Equal Opportunity and Human Rights Commission at any time.

If the complainant feels comfortable doing so, he or she is encouraged to first raise the complaint directly with the person/people against whom the allegations are made.

If the above step is not appropriate, or is unsuccessful in resolving the complaint, the complainant may raise the issues with their agency head or the parish priest/administrator or the Archdiocese's Human Resources Manager. If the matter is raised with the agency head or parish priest/administrator, the Archdiocese's Human Resources Manager is to be informed. If the complaint relates to a priest, brother, sister or seminarian, the Vicar General is to be informed.

If the complainant raises the issues with their agency head, parish priest/administrator or the Archdiocese's Human Resources Manager, the complainant will be asked to provide an account of the allegation/s. The person with whom the issues were raised will then take

appropriate steps to investigate the allegations or to refer the matter to an appropriate person for investigation.

Any investigation will include putting the allegations to the person whose actions are alleged to have breached this policy. In addition, witnesses or other relevant people may be interviewed regarding aspects of the complaint.

A finding will be made regarding whether this or any other Archdiocesan policy has been breached.

Recommendations for action will then be made and implemented.

Where the human resources management function is undertaken internally by a diocesan agency, the role identified for the Archdiocesan Human Resources Manager will be allocated to a person internal to that agency.

This complaint procedure has the following features:

- ❑ **Confidentiality:** Ordinarily, only the people directly involved in the investigation or attempted resolution of a complaint will have access to information about the complaint. Procedural fairness will require that the alleged harasser be told of the matter at an appropriate stage of the investigation. This will be handled sensitively. There will be exceptional circumstances when information cannot be kept completely confidential (for example, when physical threats are involved, when the matter has been referred to an external body such as the police and/or when it is necessary to disclose information to conduct the investigation or to protect the interests of other members of staff or people in the workplace).
- ❑ **Impartiality:** All parties will have a chance to tell their side of the story. No assumptions will be made and, to the extent possible, no action will be taken until all relevant information has been collected and considered.
- ❑ **No Repercussions:** No action will be taken against anyone for making or helping someone to make a genuine complaint. Steps will be taken to ensure that anyone making a such a complaint is not victimised.
- ❑ **Promptness:** All complaints will be dealt with as quickly as possible.
- ❑ **Outcome:** The outcome of a complaint could take a variety of forms, including: no further action, an apology, alteration of behaviour, removal of offending material, conciliation, training or counselling, re-assignment of one or both parties to another position or location, or even termination of employment. At any stage during the investigation, the investigating person may determine that the complaint warrants no further action, or refer it to the police as a criminal matter.
- ❑ **Follow up:** Once the complaint has been determined, arrangements may be made for ongoing counselling and support for the complainant and the person who was found or not to have engaged in the harassing behaviour, where appropriate.