



SEXUAL HARASSMENT POLICY

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1. Purpose and scope

The purpose of this policy is to:

- (a) prohibit sexual harassment by PSA/CPSU NSW Executive, staff, delegates and members;
- (b) protect the safety and welfare of staff and members disclosing or complaining about sexual harassment;
- (c) set out the principles and process applicable to disclosure and investigation of complaints of sexual harassment; and,
- (d) support PSA/CPSU NSW values of equality, inclusion, diversity, respect and integrity.

Under this policy the PSA/CPSU affirms that they:

- (a) have zero tolerance for sexual harassment and are committed to ensuring a safe, healthy and respectful workplace environment for staff and members in accordance with the *Sex Discrimination Act 1984* (Cth), the *Fair Work Act 2009* (Cth) and the *Anti-Discrimination Act 1977* (NSW).
- (b) are committed to supporting staff and members who have been affected by sexual harassment and/or other forms of personal violence, including domestic and family violence.
- (c) consider the safety and wellbeing of a person disclosing sexual harassment to be the priority for the PSA/CPSU NSW.

This policy applies to incidents of sexual harassment which are alleged to have been perpetrated by staff or members against other staff or members when engaged in union-related activities which can be onsite (PSA House), in their respective workplace or offsite at union-related functions, conferences and events, both formal and informal, which may eventuate as a result of their PSA/CPSU duties. This policy also applies to any contact or communication that is relevant to PSA/CPSU NSW activity but which is initiated outside of the workplace such as communication through personal social media.

This Policy should also be read in conjunction with the PSA Rules and the following PSA/CPSU NSW policies:

- (a) PSA Staff Code of Conduct.
- (b) Performance and Conduct Management Policy
- (c) Dignity and Respect Charter

2. Definitions

Sexual harassment

Sexual harassment occurs if a person:

- (a) Makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed; or
- (b) Engages in other unwelcome conduct of a sexual nature in relation to the person harassed, 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.

Sexual harassment includes but is not limited to:

- Intrusive comments about a person's private life or physical appearance,
- inappropriate leering or staring,
- sexually suggestive comments or jokes
- displaying, sending or requesting sexually explicit pictures or objects, including creating photo-shopped images
- repeated unwanted invitations to go out
- requests or pressure for sex
- sexually explicit posts on social networking sites
- insults or taunts of a sexual nature
- unwelcome touching, hugging or kissing
- sending sexually explicit emails or text messages
- inappropriate advances on social networking sites
- publicly accessing sexually explicit internet sites

Behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications whilst it may constitute sexual harassment may also be referred to the police. Where this occurs, the PSA/CPSU NSW would not be precluded from taking action under this policy, however the decision to do so must avoid the potential to impede or contaminate the criminal investigation.

A single incident is enough to constitute sexual harassment.

Sexual harassment can occur directly in person, through a third party or via other communication including email, text messaging and social media posts.

Staff: includes persons employed by the PSA/CPSU NSW in permanent, temporary, casual capacity, those on secondment arrangements, and contractors engaged by the PSA/CPSU NSW to undertake work.

Members: includes the PSA Executive, Central Councilors, Delegates and members

3. Policy Statement

The PSA/CPSU NSW is committed to social justice and equal opportunity and recognises the right of staff and members to work in an environment free from sexual harassment in any form. Sexual harassment denies the equality of opportunity, undermines the morale of the persons concerned and the legitimacy of their position in the union. The PSA/CPSU NSW is committed to ensuring that sexual harassment does not occur and in the event that an incident does arise, that appropriate action is taken swiftly and fairly.

The PSA/CPSU NSW aims to:

- create a working environment that is free from sexual harassment and where all staff and members of the union are treated with dignity, courtesy and respect;
- implement effective preventative measures that support such an environment;
- provide an effective procedure for complaints based upon the principles of natural justice;
- treat all complaints and disclosures in a sensitive, fair, timely and confidential manner;
- protect the health and wellbeing of complainants by ensuring any acts of victimization or retaliation are investigated and dealt with swiftly;
- encourage the reporting of behavior that breaches the sexual harassment policy and
- promote appropriate standards of conduct at all times.

4. Prevention Principles

The PSA/CPSU NSW commits to the promotion of core values to prevent sexual harassment and will support this through:

- (a) Promoting a clear message of zero tolerance regarding behaviours which constitute sexual harassment;
- (b) Clearly communicating the options for reporting incidents of sexual harassment and how to seek support;
- (c) Ensuring that all staff are aware of their particular responsibilities in the prevention of sexual harassment through compulsory training;
- (d) Treating individuals fairly, impartially, equitably and with compassion and empathy, while adhering to the principles of natural justice in making decisions with respect to alleged incidents; and
- (e) Providing meaningful outcomes for affected staff and members and as far as possible seek to minimize the impact of incidents upon staff and members.

5. Victimisation

Victimisation is subjecting or threatening to subject someone to a detriment because they have asserted their rights under law or this policy, helped someone else make a complaint, or refused to do something because it would be sexual harassment or victimisation.

Victimisation is against the law.

In the context of this policy a person must not victimize or otherwise subject another person to detrimental action as a consequence of that person:

- (a) making a complaint of sexual harassment;
- (b) providing information about a disclosure or complaint of sexual harassment;
- (c) supporting a person who has made a disclosure of sexual harassment; or
- (d) engaging in safe active bystander action.

Victimisation is a very serious breach of this policy and is likely (depending on the severity and circumstances) to result in formal discipline against the perpetrator.

PSA/CPSU NSW has a 'zero tolerance' approach to victimisation.

6. Confidentiality

The PSA/CPSU NSW will support staff and members who have been affected by sexual harassment to manage their response on their own terms and when they feel safe and confident to do so. The PSA/CPSU NSW will at all times prioritise the health and wellbeing of the affected individual however will not use or disclose personal information unless that individual is aware of and has consented to that disclosure for the purposes of either action under this policy or referral to support services, or where they are required to do so under law.

Under this policy, the following must be kept confidential:

- (a) the identity of the complainant, the respondent and participants in the resolution or investigation of a complaint;
- (b) the information provided or collected during the resolution or investigation of a complaint; and
- (c) any interim measures, reports or outcomes associated with the complaint.

It is unacceptable for staff at PSA/CPSU NSW to talk with other staff or members about any complaint.

Breaching the confidentiality of a formal complaint investigation or inappropriately disclosing personal information obtained in a professional role (for example, as a manager) is a serious breach of this policy and may lead to formal disciplinary action.

7. Procedures

PSA/CPSU NSW strongly encourages any staff or member who believes they have been

sexually harassed or victimised in the workplace to take appropriate action by reporting their complaint to their Manager verbally or in writing.

In the case of a member, it can be reported to the General Secretary, Assistant General Secretary or President.

Investigations will be completed in a fair, timely and confidential manner. Unless requested by the complainant or other circumstances make it impractical, an external investigator will be engaged to investigate the matter and make a recommendation in accordance with the PSA's Performance and Conduct Management Policy.

At any point, staff may choose to contact their union.

The Manager (or other Investigating officer) will:

- treat the complaint seriously and sensitively;
- act impartially at all times;
- investigate the complaint, interviewing the accused person and witnesses where they are available;
- keep a full and accurate record of all information gathered in the course of the investigation including dates, details of specific incidents and frequency of occurrences;
- Report to the General Secretary, including making a recommendation regarding the outcome of the complaint.

8. Responsibilities

All PSA/CPSU NSW staff and members must:

- comply with this policy;
- Confidentially and appropriately report incidents of sexual harassment that they witness;
- Offer support to anyone who is being harassed and advise them of where to seek assistance and support, and how to make a complaint;
- Maintain confidentiality of information provided during an investigation of a complaint; and
- treat everyone with dignity, courtesy and respect.

Managers and PSA Executive must also:

- model appropriate standards of behavior;
- take appropriate steps to educate staff and members of their obligations under this policy and the law;
- treat all complaints seriously and confidentially and take immediate action to resolve the matter;

- act fairly to resolve issues and enforce workplace behavioral standards, making sure relevant parties are heard
- assist staff resolve complaints informally where requested;
- ensure staff who raise an issue or make a complaint are not victimised.

9. External avenues for investigating or reviewing a Complaint


A complainant who does not feel comfortable or safe with an internal investigation, or is not satisfied with the handling of the complaint or the decision made following an investigation, may contact their union, the Anti-Discrimination Board or the Australian Human Rights Commission for assistance.

NSW Anti-Discrimination Board:

Phone (02) 9268 5544, Toll Free 1800 670 812
 Email enquiries: adbcontact@justice.nsw.gov.au
 Email complaints: complaintsadb@justice.nsw.gov.au

Australian Human Rights Commission:

Phone: 1300 656 419 or 02 9284 9888
 Email: infoservice@humanrights.gov.au
 Fax: 02 9284 9611

	DATE & SIGNATURE
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