

Prevention of Sexual Harassment at Workplace Policy

Version 1.0

29 February 2024

Prevention of Sexual Harassment at Workplace Policy

1.	Policy Statement	1
1.1	Why have a sexual harassment prevention policy?	1
1.2	Purpose and Scope	1
1.3	Legislation	2
1.4	Breach.....	2
1.5	Roles and responsibilities.....	2
2.	Sexual harassment in the workplace	3
3.	Prevention	4
4.	Reporting sexual harassment	5
4.1	A range of reporting pathways.....	5
5.	Responding to reports of sexual harassment	7
5.1	Informal resolution.....	7
5.2	Work health and safety investigation	8
5.3	Formal investigation	8
5.4	Procedural fairness	8
5.5	Confidentiality, privacy and transparency	9
5.6	Possible outcomes	9
5.7	Criminal matters	9
5.8	Protection against victimisation	10
6.	Record keeping	10
7.	Monitoring and evaluation	10

Policy Control Information

Policy Name	Prevention of Sexual Harassment at Workplace
Policy Owner	SAS Trustee Corporation (STC)
Current Version	1.0
Approval Date	29 February 2024 by Board
Next Review Date	1 March 2027 by PCC (triennial review)

1. Policy Statement

1.1 Why have a sexual harassment prevention policy?

The SAS Trustee Corporation (STC) is committed to safe, respectful and inclusive work environments, free from sexual harassment.

Sexual harassment will not be tolerated under any circumstances.

By having a standalone prevention policy, we call attention to what sexual harassment is, how it manifests in workplaces, and the role we all play in preventing it.

Sexual harassment is a work health and safety issue.

All NSW government sector agencies have a duty of care to ensure, so far as is reasonably practicable, the health and safety of workers and to provide a safe workplace. This includes managing the risk of sexual harassment.

1.2 Purpose and Scope

The purpose of this policy is:

- to ensure all workers understand the standards of behaviour expected of them and their legal rights and responsibilities in relation to workplace sexual harassment;
- to ensure all workers understand what sexual harassment is, how to prevent it, and how to respond to it in a way that minimises harm and ensures they meet their legal responsibilities.

This policy concerns prevention of sexual harassment and applies to all people ('workers') carrying out work in any capacity for STC.

In this policy:

- 'worker' has the same meaning as in the *Work Health and Safety Act 2011* (NSW) and includes an employee (including the CEO and all leadership and management personnel), a contractor or subcontractor, an employee of a contractor or subcontractor or an employee of a labour hire company who has been assigned to work in the person's business or undertaking, an outworker, an apprentice or trainee, a student gaining work experience, a volunteer or a prescribed class of person.
- 'workplace' is a place where work is carried out for a business or undertaking, and includes any place a worker goes, or is likely to be, while at work.

This policy applies to circumstances including the following:

- interactions between workers;
- interactions between workers and third parties (including visitors, clients or customers) where that interaction occurs in connection with any work-related activity, e.g. sexual harassment of a visitor, client or customer by a worker;

- on-site, off-site, work-related social functions and conferences – wherever workers may be for work-related duties, including working from home;
- out of work hours interactions where there is a strong connection to the employment relationship;
- all aspects of employment, recruitment and selection, conditions and benefits, training and promotion, task allocation, shifts, hours, leave arrangements, workload, equipment and transport;
- in online spaces, including email, Microsoft Teams and social media platforms where the conduct is in connection with the employment (e.g. remote work) or involving online communication between workers or between a worker and a third party.

1.3 Legislation

Sexual harassment and harassment on the ground of sex is unlawful and prohibited by the *Anti-Discrimination Act 1977* (NSW) (Anti Discrimination Act) and the *Sex Discrimination Act 1984* (Cth) (Sex Discrimination Act). Both of these Acts apply to NSW government sector employees.

Employers or people conducting a business or undertaking now have a positive duty under the Sex Discrimination Act to take reasonable and proportionate measures to eliminate, so far as possible, sexual harassment, as well as certain other conduct contrary to that Act, including harassment on the ground of sex.

Some forms of sexual harassment may also be criminal offences. Sexual harassment is also a work health and safety (WHS) risk. Under the *Work Health and Safety Act 2011* (NSW), STC and its officers have a duty to prevent sexual harassment, as it is a hazard and risk to a worker's physical and psychological health. Workers also have WHS duties to take reasonable care for their own health and safety and not adversely affect the health and safety of others.

Sexual harassment is also contrary to the ethical framework for government sector employees outlined in the *Government Sector Employment Act 2013* (NSW) (GSE Act) and contrary to the Code of Ethics and Conduct for government sector employees.

1.4 Breach

Sexual harassment and other behaviour that contravenes this policy may amount to misconduct under the GSE Act and may otherwise be unlawful. STC will deal with misconduct in accordance with the requirements of s.69 of the GSE Act, the *Government Sector Employment Rules 2014* (NSW), applicable laws and any other relevant industrial instruments.

1.5 Roles and responsibilities

Employees

All employees and other workers must:

- comply with this policy;
- demonstrate high levels of personal conduct consistent with this policy and their responsibilities under the ethical framework and Code. This

means they must treat others with dignity, courtesy and respect and not engage in sexual harassment or condone sexual harassment by others;

- seek assistance when unsure about how to implement this policy;
- be encouraged to report suspected breaches of the policy in accordance with the reporting mechanisms below.

Supervisors/Managers/Leaders

In addition to their responsibilities as employees, those with management and leadership responsibilities must also:

- promote a work culture where sexual harassment is unacceptable;
- communicate and promote this policy to those they work with;
- challenge inappropriate behaviour;
- encourage an environment where workers feel safe to report sexual harassment;
- prioritise the care and support of those impacted when responding to issues raised with them or observed;
- treat all reports of sexual harassment seriously and confidentially and take prompt action to address them (taking into account the wishes of the person subjected to the harassment).

2. Sexual harassment in the workplace

Sexual harassment is any conduct:

- that is unwelcome (whether or not the person impacted has explicitly identified it as unwelcome or raised a concern about the conduct);
- of a sexual nature (a sexual advance, request for sexual favours or other conduct of a sexual nature);
- that a reasonable person (aware of all the circumstances) would anticipate could possibly make the person subjected to the conduct feel offended, humiliated or intimidated.

It can be physical, verbal or written, including through online and phone communication.

Examples of behaviour that could be sexual harassment in the workplace include:

- unwelcome or inappropriate touching, hugging, cornering or kissing;
- inappropriate staring or leering that makes the other person feel intimidated;
- sexually explicit or indecent physical contact;
- actual or attempted sexual assault;
- sexual gestures, indecent exposure or inappropriate display of the body;

- displaying sexually explicit images or objects around the office;
- intrusive or sexually suggestive questions, comments or jokes;
- unwanted or repeated invitations to go out on dates, start a relationship or propositions for sex;
- communicating content of a sexual nature through social media;
- threatening to share or sharing intimate images/video of someone without consent.

It should not be assumed that a person consents to another person's behaviour simply because they have not complained about it. Power imbalances and concerns about victimisation or reprisal may prevent the person from expressly objecting to the behaviour.

There is no requirement that the unwelcome conduct be repeated; a one-off incident can be sexual harassment. A broader pattern of behaviour can also constitute sexual harassment.

Sexual harassment may be perpetrated by various people, including an employer, supervisor, co-worker, client, contractor, volunteer, patient or customer.

3. Prevention

STC is committed to taking a proactive and holistic approach to prevent sexual harassment in the workplace. This is consistent with work health and safety legislation.

Under WHS laws, STC has a positive duty to prevent sexual harassment, as it is a hazard and risk to a worker's physical and psychological health.

Risk assessment

The duty requires STC to eliminate risks to the health and safety of workers and other people so far as is reasonably practicable. If it is not reasonably practicable to eliminate risks, they must be minimised so far as is reasonably practicable.

Prevention requires identification of risks. Leaders and managers should regularly identify and assess risk factors for sexual harassment, including by seeking feedback from staff and in consultation with Health and Safety committee. Workers should understand and consider work systems and practices to identify risks of exposure.

Examples of risk factors include:

- working after hours with minimal supervision;
- working in restrictive spaces like cars or small rooms;
- isolated work locations.

Prevention also requires assessment of the work environment. Sexual harassment may occur where a work environment or culture is sexually charged or hostile, even if the conduct is not directed at a particular person.

Leadership

It is expected that leaders at all levels within STC will uphold this policy in full and proactively encourage others to do so too.

Power imbalance is a significant risk factor for sexual harassment. Therefore, it is critical that leaders at all levels comply with the Code of Ethics and Conduct for NSW government sector employees and all behavioural policies in place at STC to better contribute to cultures that prevent workplace sexual harassment.

Transparency

STC is committed to transparency on the number of incidences of sexual harassment in the organisation. This builds confidence in our reporting processes.

This does not mean full disclosure of all the details or disclosure of any reports which are found to be intentionally falsified or vexatious, but rather considered sharing where possible of relevant de identified information on a regular basis to encourage organisational learning and prevent similar incidents from happening in the future. In doing so, STC will ensure confidentiality and privacy is maintained, and that no personal information or information which otherwise identifies victims or perpetrators can be ascertained from that data or any shared learning (or other) material.

Diversity and Inclusion

Diverse and inclusive workplaces are essential for building safe and respectful workplace environments that are free from sexual harassment. Addressing gender inequality is fundamental to eliminating workplace sexual harassment.

Knowledge and education

STC will ensure all leaders, managers and supervisors are trained to appropriately respond to disclosures of sexual harassment, ensure all workers are trained to appropriately identify sexual harassment, call out behaviour as active bystanders, and are aware of the reporting and response procedures.

4. Reporting sexual harassment

STC strongly encourages individuals who have been sexually harassed or have witnessed sexual harassment to report the behaviour.

Making a report about sexual harassment does not necessarily automatically trigger a formal investigation, although that may be appropriate in some cases. Support, advice and early intervention may prevent further or more serious instances of sexual harassment from occurring.

Workers are encouraged to make timely reports, while being reassured they will not be treated unfairly because of any delay in reporting harassment.

4.1 A range of reporting pathways

Options available to report sexual harassment include:

- seeking support, advice and making a disclosure;
- reporting internally to STC;

- reporting to an external authority.

Incidents of sexual harassment can be reported informally, formally, anonymously and confidentially. Reporting pathways are outlined in more detail below.

Seeking support, advice and making a disclosure

People who have experienced or witnessed sexual harassment can:

- speak to a manager, supervisor, human resources, members of work, health and safety committee to raise concerns, receive support and discuss options that could help resolve the issue;
- access the Employee Assistance Program at 1800 505 015 or online at www.assureprograms.com.au;
- seek advice from an external body, e.g. Australian Human Rights Commission, Anti Discrimination NSW, Safe Work NSW, NSW Women's Legal Service or Wirringa Baiya Aboriginal Women's Legal Centre.

Individuals may wish to raise the issue directly with the other person(s) involved if they feel safe and comfortable to do so. However, there is no expectation or requirement for this.

Report internally

Where self management is not appropriate or does not resolve the matter, a report can be made (verbally or in writing) to STC. Reports can be made to the HR Team or any member of the Executive team. The person impacted may choose to report using a work health and safety mechanism, as sexual harassment is a workplace hazard STC's WHS reporting mechanism.

Where a report of sexual harassment is received, STC will ensure the person impacted receives appropriate support and is involved in decisions about how to respond. All reports will be responded to promptly, taken seriously, and treated confidentially. Steps will be taken to protect anyone who makes a report from reprisals, adverse treatment or victimisation (see section 5.8 below).

In cases of sexual assault, employees will be supported to make a report to the police and referred to specialised sexual assault support services.

Report to an external agency

A formal report about sexual harassment can be made to the following agencies:

- Anti-Discrimination NSW;
- Australian Human Rights Commission;
- Safe Work NSW;
- NSW Police Force;
- Fair Work Ombudsman;
- NSW Independent Commission Against Corruption if corrupt conduct is suspected or may be involved.

The person impacted can make an external report regardless of whether they have raised a complaint internally.

5. Responding to reports of sexual harassment

STC is committed to taking a trauma informed and person centred approach when responding to reports of sexual harassment. This includes:

- ensuring the safety, privacy and wellbeing of the person impacted are prioritised;
- listening to the person impacted in a compassionate, non judgmental and sensitive manner;
- ensuring all processes are designed to minimise harm;
- ensuring reports are handled fairly, impartiality and reasonably in accordance with procedural fairness principles;
- ensuring all participants in the process have clear information about the process and how procedural fairness will be provided;;
- ensuring confidentiality is understood and maintained
- ensuring responses are provided in a timely manner.

If an allegation of misconduct has been made, STC must deal with the allegation in accordance with any applicable legislation. STC will always seek input from the person impacted on how they would like the matter resolved and take this into account in determining how to proceed with the complaint. Where possible, STC will explain its reasons if it does not handle or resolve the complaint in the way requested by the person impacted.

In some cases, the person impacted may not want any action taken and is reporting the behaviour so that the organisation knows that it has occurred. STC has an obligation to deal with any wrongdoing it becomes aware of. In some cases, action may be warranted, even where the person impacted states that they do not want any further action to be taken. This may be the case in situations where the behaviour constitutes a work health and safety risk or a criminal offence or requires disciplinary action to be taken or where there have been repeated complaints regarding an individual's behaviour.

5.1 Informal resolution

Informal resolution or management is where the issue is resolved internally, without a formal response or investigation. Rather than making a determination as to whether the conduct occurred, the aim is to stop escalation or future incidents by educating the alleged harasser about acceptable standards of behaviour and mitigating the risk of the conduct repeating in the future.

Responding to issues through informal resolution may include:

- a leader, manager or supervisor speaking to the alleged harasser about their behaviour;
- facilitating/mediating an open and respectful conversation between the parties;

- putting system changes in place to prevent further issues, e.g. moving or changing the shifts of the alleged harasser, directing the alleged harasser to participate in behavioural change counselling;
- refresher training for the general work area on the requirements of this policy.

5.2 Work health and safety investigation

Where a worker has chosen to report the sexual harassment as a work health and safety hazard, or the incident has been identified as a work health and safety hazard, STC will conduct an investigation in accordance with STC's work health and safety policy.

5.3 Formal investigation

Where a formal investigation is appropriate or is the preference of the person impacted, STC will appoint an internal or external investigator to investigate the allegation/s and make factual findings, and report to STC, which will then decide an outcome in accordance with applicable legislation.

Investigations will be conducted in a confidential, impartial, timely and fair manner. Investigations will adopt a trauma informed approach, with awareness of power imbalances that may exist between the parties.

The parties involved will be notified of their right to have a support person to assist them throughout the process. STC will begin the investigation as soon as possible and aim to finalise a formal investigation within 90 business days. The parties will be kept regularly informed during the period of the investigation.

Investigations will be undertaken in line with relevant organisational policies, procedures and industrial instruments. In some circumstances, an employee who is the subject of a complaint may be suspended from duty whilst an investigation is ongoing and/or a decision is made in relation to the complaint.

5.4 Procedural fairness

STC acknowledges that for workers who are the subject of allegations of wrongdoing, the experience may be stressful. STC will protect their rights by:

- assuring them that any report will be dealt with impartially, fairly and reasonably in accordance with the principles of procedural fairness;
- confirming that the report is an allegation only if and until information or evidence obtained through an investigation substantiates the allegation;
- providing them with information about their rights and the progress and outcome of any investigation;
- referring them to the Employee Assistance Program for support;
- allowing both parties the opportunity to respond to any allegations made against them before any report is finalised and a final decision is made.

Any reports made that are found to be intentionally falsified or vexatious in nature will be actioned accordingly.

5.5 Confidentiality, privacy and transparency

STC will treat reports of sexual harassment confidentially, including:

- the identity of the person impacted, alleged harasser/s, and any other participants involved in the investigation process;
- information provided or collected during the investigation of an allegation.

It is expected that all workers involved in an investigation will keep details of the allegation confidential until the investigation has concluded. Failure to do so may result in further consequences or disciplinary action.

Ensuring confidentiality should not prevent the people involved from seeking support. Some information reported may need to be disclosed to involved parties in order to properly investigate the matter.

Where there is reason to believe that a person is a risk to themselves or others, and in the case of reportable conduct, STC may need to notify appropriate authorities. Once the matter is finalised, STC will not restrict the impacted person's right to speak in their personal capacity.

5.6 Possible outcomes

Consequences for the responsible person(s)

Where allegations of sexual harassment are substantiated, action that is consistent and proportionate will be taken to hold the responsible person to account for their behaviour. The possible outcomes will also depend on whether an informal resolution or a formal complaint was preferred by the person impacted. Possible outcomes include:

- disciplinary action, e.g. warning, suspension, demotion or dismissal;
- a change to working hours or locations;
- an apology;
- agreement on protocols to manage the relationship moving forward;
- refresher sexual harassment prevention training;
- coaching or performance counselling;
- behavioural change counselling.

Restorative actions for the impacted person(s)

STC will work with the impacted person(s) to understand and implement, where possible, any actions that may help them to recover from the incident, rebuild relationships at work and continue a successful career with STC.

5.7 Criminal matters

Where a report of sexual harassment is made that may involve behaviour constituting a criminal offence, Human Resource team and/or Legal team should immediately be contacted for advice.

In general, STC will not report sexual offences to the police without the consent of the person making the report, in line with a person centred and trauma

informed approach. However, when there is an imminent risk to safety, there will be circumstances when police may need to be called without consent.

5.8 Protection against victimisation

Victimising another person for making an allegation or report of sexual harassment is unlawful under the Anti Discrimination Act and the Sex Discrimination Act, unless it involves lawful action in relation to an allegation that is proven to be false and not made in good faith. Victimisation occurs when a person is subjected to, or threatened with, detriment for their involvement in the matter. It can include:

- bullying or intimidation by co-workers;
- being denied a promotion or being moved to a position with lower responsibility;
- dismissal or threatened dismissal from employment;
- being refused further contract work.

Victimisation of people who have, or might, complain of sexual harassment, as well as bystanders or people perceived to have helped a person make a report of sexual harassment, is also unlawful.

6. Record keeping

STC keeps confidential records of all correspondence with parties in relation to reports of sexual harassment, including how the report is addressed, letters, emails, file notes of phone calls and conversations, investigation reports and all evidence collected.

7. Monitoring and evaluation

STC is committed to effective monitoring, evaluation and organisational learning processes that will foster a safe and respectful work environment. This includes:

- regularly collecting and assessing reports and relevant data for trends, patterns and lessons to drive continuous improvement;
- regularly consulting with workers to share knowledge and understand issues from a worker perspective;
- regularly reviewing and updating sexual harassment prevention plans to drive continuous improvement;
- sharing information about trends, patterns and lessons with staff, leadership, management committees and relevant stakeholders;
- ensuring staff have confidence that sexual harassment is being eliminated in their workplace.