



Deadly Inspiring Youth Doing Good Aboriginal & Torres Strait Islander Corporation

**Date of last amendment : 10/10/2022**

## Sexual harassment policy

The purpose of this policy is to ensure that all staff are educated in the prevention of sexual harassment and to recognise the behaviours that may constitute sexual harassment.

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### Harassment officer:

Deadly Inspiring Youth Doing Good Aboriginal & Torres Strait Islander Corporation has two appointed harassment officer, This must be made up of 1 female and 1 male. Bernard Sabadi.

### Introduction:

Deadly Inspiring Youth Doing Good Aboriginal & Torres Strait Islander Corporation is committed to providing safe workplaces, free from sexual harassment. Deadly Inspiring Youth Doing Good Aboriginal & Torres Strait Islander Corporation considers sexual harassment an unacceptable form of behaviour which will not be tolerated under any circumstances. Sexual harassment is unlawful and the below Act operates at a federal level.

- Sex Discrimination Act 1984 (Cth).

### Sexual harassment:

No employee shall subject another person to sexual harassment as this is unacceptable. All employees must ensure that the workplace is free from sexual harassment. Should an employee engage in conduct which constitutes sexual harassment, Deadly Inspiring Youth Doing Good Aboriginal & Torres Strait Islander Corporation may immediately terminate their employment.

### What is sexual harassment?

Sexual harassment is conduct of a sexual nature that is unwelcome. Sexual harassment can be physical, verbal or written. It involves behaviour that could reasonably be expected to make a person feel offended, humiliated or intimidated. Even if the behaviour is not intended by the individual to be sexually harassing, it may still be unlawful.

Sexual harassment can be physical, verbal, or visual and may include statements or transmissions by SMS, phone, fax, video conference, internet and email, and will vary in the degree and extent to which it causes affront and distress. All individuals can be subjected to sexual harassment from either persons of the same gender, opposite gender or those who identify as non-binary.

### Sexual harassment may include:

1. Comments about a person's sex life or physical appearance;
2. Comments of a sexual nature;
3. Suggestive behaviours such as leering;
4. Unnecessary physical intimacy such as brushing up against a person;
5. Physical contact such as touching or fondling;
6. 'Flashing' or sexual gestures;
7. Sexual propositions or repeated unwanted requests for dates;
8. Making promises or threats in return for sexual favours;
9. Sexual jokes, offensive telephone calls, displays of offensive photographs, reading matter or objects;
10. Sending jokes or graphics of a sexual nature by email, phone internet or fax;
11. Unwelcome questioning about a person's private life;
12. Offensive computer screen savers;
13. Unwanted requests for sex; and stalking, indecent assault or rape (which are also criminal offences).

Where the interaction is consensual, welcome and reciprocal it will not amount to sexual harassment. However, judgements about what constitutes consensual, welcome and reciprocal interaction may be influenced by the relative power of the people involved. The capacity of persons in positions of authority to influence others and affect their wellbeing is a factor that will be taken into account in the management of any sexual harassment allegation.

It is not the intention of this policy to interfere in personal lives and relationships. However, an employer has an obligation to ensure that sexual harassment does not occur and that professional standards of conduct are maintained in the workplace. The effect of sexual harassment on those people involved and, on the workplace, can range from annoyance to deep distress and can lead to an intimidating, hostile and offensive work environment. This can contribute to reduced quality of work, low productivity, distraction from work, low morale, absenteeism, poor health, high staff turnover, and a range of other issues negatively impacting the organisation. Sexual harassment can deny people their entitlement to the quiet enjoyment of life in the workplace.

### **Criminal offences:**

Sexual harassment in certain circumstances constitutes criminal offence. Sexual harassment can include inappropriate touching and inappropriate verbal comments concerning people in the workplace and members of the public. Sexual harassment involving physical or indecent assault, stalking, making nuisance phone calls or the sending of obscene material using mail, email or the internet, may be an offence under criminal law. Allegations of this nature must be reported to the police. The employer must ensure that any investigation is not interfered with or compromised in any way.

\*If applicable; sexual offences against children or young persons can have mandatory reporting implications, which require contact with the police.

### **Deadly Inspiring Youth Doing Good Aboriginal & Torres Strait Islander Corporation's commitment:**

Deadly Inspiring Youth Doing Good Aboriginal & Torres Strait Islander Corporation is dedicated to the elimination of sexual harassment. We are committed to:

1. Facilitating access to sexual harassment training;
2. Referring to this policy in staff code of conduct;
3. Providing support for managing complaints to complainants or respondents;
4. Reviewing and updating policies in consultation with relevant stakeholders;
5. Maintaining Deadly Inspiring Youth Doing Good Aboriginal & Torres Strait Islander Corporation's commitment to its relationship with the Equal Opportunity and Human Rights Commissions in promoting harassment free workplaces;
6. The responsibility for providing a working environment free from sexual harassment;
7. Under the federal Sex Discrimination Act 1984 (Cth), the business may be held to be vicariously liable for the actions of their employees and agents unless they can demonstrate that they have taken all reasonable steps to prevent the conduct from occurring. An employer is required to take action if aware of any behaviour which could constitute sexual harassment, even if no complaint has been lodged. Staff and other persons can be liable for the actions of others if they authorise, encourage or assist sexual harassment. In some circumstances, inaction can amount to implicit authorisation;
8. Deadly Inspiring Youth Doing Good Aboriginal & Torres Strait Islander Corporation is committed to ensuring that all persons in the workplace are aware of their rights and obligations with respect to sexual harassment and is committed to providing staff with appropriate training and access to information and services;
9. Deadly Inspiring Youth Doing Good Aboriginal & Torres Strait Islander Corporation has appointed a harassment manager who can provide information and support in relation to sexual harassment and support any prospective complainant.

### **Roles and responsibilities:**

#### **The responsibilities of all employees under this policy including management are set out below:**

1. Modelling appropriate behaviour;
2. 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;
3. Promoting awareness of the avenues for advice and the complaints procedures with respect to sexual harassment as set out in this policy;
4. Treating complaints of sexual harassment with appropriate confidentiality;
5. Ensuring that a person is not victimised for making, or being involved in, a complaint of sexual harassment;
6. If applicable, where an allegation involves a minor, ensuring that an appropriate network of support, guidance, counselling and liaison with parents/guardians is established in accordance with duty of care obligations;
7. Compliance with the Deadly Inspiring Youth Doing Good Aboriginal & Torres Strait Islander Corporation sexual harassment policy;
8. Participate in any training provided by Deadly Inspiring Youth Doing Good Aboriginal & Torres Strait Islander Corporation, including understanding the sexual harassment policy;
9. Be familiar with the sexual harassment policy including the procedures for dealing with

- allegations of sexual harassment;
10. Act as a point of contact for a person considering making a complaint or seeking information about sexual harassment;
  11. Provide the complainant with information about the various options and avenues for advice and the complaints procedures;
  12. Understand that the role of the company is to provide information and support to the complainant, and this also extends to investigation, conciliation, making a judgement about what constitutes sexual harassment, or other intervention;
  13. Anyone who witnesses sexual harassment in the workplace or at a place connected to the workplace must report it to the Harassment Officer.

### **Fairness:**

The manager must ensure that every complaint is dealt with in a manner that is both procedurally and substantively fair. The principles of natural justice to be observed include:

1. The right of each party to be heard;
2. The right of each party to be treated fairly;
3. The right of the respondent to have a witness or support person, who may be a union representative, present at any meetings;
4. The right of the respondent to know the allegations made against him or her;
5. The right of the respondent to respond to the allegation(s) made against him or her;
6. The right of both parties to a decision maker who acts fairly and in good faith.

### **Counselling:**

If at any stage throughout the procedure the complainant or respondent or any other person requires counselling, contact should be made with the harassment officer. If staff are uncomfortable using the internal support staff they have the ability to contact Worksafe or appropriate authorities.

### **Happy HR grievance process:**

Complaints can be submitted to the authorised chosen manager using the HAPPY HR grievance process on the employee dashboard.

1. Manager will interview the complainant. The employee is permitted to bring a support person to the interview and all future meetings and discussions related to the grievance raised. The responsible manager may also be present at this meeting.
2. Manager will meet with the individual who has had a complaint raised against them and a written summary of the complaint will be given to that person. They will be provided with an opportunity to respond in another interview with management.
3. Statements from witnesses and other relevant evidence may be obtained.
4. Manager will make a recommendation to the responsible Manager and / or Director as to

whether the complaint has substance based on the available evidence. This is done in a report documenting the investigation process, the evidence, the finding, and a recommended outcome.

5. The responsible manager is required to formally report what action has been taken to resolve the issue within **5 business days**. This will be recorded in the official log and the complainant notified on the action taken.
6. Management may act on the recommendation given by the Sexual Harassment Officer or relevant manager or after due consideration, decide on an alternative course of action
7. Follow up of the matter will be conducted within two to four weeks, depending on the severity of the matter.
8. Where the review reveals the complaint has not been rectified, the matter will be escalated to the appropriate authority.
9. The complainant may withdraw the complaint. However, as the company has a legal obligation to maintain a harassment free workplace. The company will, at its discretion, further investigate the complaint to determine if there is a risk to the health and well-being of its staff
10. If the complaint is substantiated, the possible outcomes can range from an apology, counselling of the person against whom a complaint is found, to disciplinary action, which can range from transfer to an alternative position, a written warning, BPIP plan a first and final warning, to termination of employment.
11. If the complaint is found to be unsubstantiated, no further action will be taken unless it is found that the complaint was made vexatiously or was knowingly false, in which case disciplinary action may be taken against the complainant.
12. At the conclusion of the process, the Director or relevant senior manager will follow up with the parties to ensure the offending behaviour has stopped and that neither party has been victimised.

### **Other options:**

The complainant has the right to make a complaint to Worksafe, the Human Rights and Equal Opportunity Commission or appropriate authorities if they feel that the matter has not been handled in accordance with this policy or feel that the company has been unjustly bias.

### **Discipline under this policy:**

Management of Deadly Inspiring Youth Doing Good Aboriginal & Torres Strait Islander Corporation has the responsibility of overseeing this policy. Supervisors and managers will ensure employees are compliant with all areas of this policy, including any disciplinary action resulting from non-compliance.

### **Outside of the workplace and working hours:**

Behaviour constituting sexual harassment in the workplace can also occur where there is a link to employment including (but not limited to):

- at social functions sponsored and paid for by Deadly Inspiring Youth Doing Good Aboriginal & Torres Strait Islander Corporation;
- at social functions in connection with the team/workplace but not sponsored or paid by Deadly Inspiring Youth Doing Good Aboriginal & Torres Strait Islander Corporation;
- in vehicles while on the way to work functions or meetings;
- at after-parties to such events (regardless of their location);
- in accommodation (including hotel rooms) associated with or provided by Deadly Inspiring Youth Doing Good Aboriginal & Torres Strait Islander Corporation;
- online via use of technology and social media; and
- any other location in situations where the conduct commenced in the workplace and continued outside the workplace and vice-versa.

### **Further considerations:**

**Consent** - A key element of sexual harassment is that it is unwelcome. It is important to note that if a person does not object to inappropriate behaviour at the time; it should not be assumed that they are giving their consent. Consent exists where clear and unambiguous consent has been freely given and continues to be given. Sexual or romantic interaction that is entered into freely and is reciprocated between consenting employees, is not a form of sexual harassment. This includes sexual interaction, flirtation, attraction or friendship which is invited, mutual, consensual or reciprocated action.

**Intent** - The Sex Discrimination Act 1984 (Cth) states that sexual harassment occurs in circumstances in which the conduct was unwelcome and a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated. Sexual harassment can still occur even when a harasser does not intend it. Motive is irrelevant; the test focuses on how the behaviour is received by the other person. It is the responsibility of every employee to ensure that they do not engage in any behaviour that could amount to sexual harassment. Deadly Inspiring Youth Doing Good Aboriginal & Torres Strait Islander Corporation will not excuse sexual harassment which was intended as a joke if it meets the legal definition of sexual harassment.

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