

# SEXUAL HARRASSMENT POLICY

Central Coast Group Training is committed to a safe, respectful, and inclusive work environment, free from sexual harassment.

Sexual harassment will not be tolerated under any circumstances.

Sexual harassment is unlawful and prohibited by the Anti-Discrimination Act 1977 (NSW) and the Sex Discrimination Act 1984 (Cth).

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. Central Coast Group Training have a duty of care to ensure, so far as is reasonably practicable, the health and safety of its' workers. This includes managing the risk of sexual harassment.

## **Purpose**

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 that legal responsibilities have been adhered to

## **Legislation**

Sexual harassment and harassment on the ground of sex is unlawful and prohibited by the Anti-Discrimination Act 1977 (NSW) and the Sex Discrimination Act 1984 (Cth).

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 grounds of sex.

Some forms of sexual harassment (e.g. sexual assault, indecent exposure, stalking and obscene communications) 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), Central Coast Group Training 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.

Some incidents of sexual harassment may be notifiable incidents under ss.35 38 of the Work Health and Safety Act 2011. A notifiable incident includes a person's death, or serious injury or illness requiring immediate treatment as an in-patient in a hospital.

## **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. 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.

CCGT and Host Employers:

Both CCGT and all associates 'host employers' 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).

### **What is Sexual Harassment?**

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
- being followed or watched or having someone loitering nearby
- 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
- comments or questions about a person's sexual activities or body
- unwanted or repeated invitations to go out on dates, start a relationship or propositions for sex
- emailing pornography or rude jokes
- sending sexual text messages, including photos, videos or memes
- communicating content of a sexual nature through social media
- threatening to share or sharing intimate images/video of someone without consent
- ongoing unwelcome contact (e.g. in person, by phone, via social media) following the end of a consensual relationship.

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.

Some forms of sexual harassment are also criminal offences. Sexual assault (commonly referred to in the community as rape and attempted rape), sexual touching without consent and other sexual acts without consent are serious criminal offences.

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.

Some conduct may not meet the definition of sexual harassment but still be unlawful. For example, conduct may not be sexual harassment, but amount to harassment on the ground of sex, sex discrimination and/or the creation of a hostile workplace.

A single act of conduct may fall into more than one of these categories, for example both sexual harassment and harassment on the ground of sex.

### **Relationships in the Workplace**

Sexual or romantic interaction that is entered into freely and is reciprocated between consenting adults is not sexual harassment. This includes sexual interaction, flirtation, attraction or friendship which is invited, mutual, consensual or reciprocated action.

This does not mean that consensual sexual or romantic interactions between workers are always appropriate. Workers may face disciplinary action where their actions adversely affect other workers or their workplace responsibilities.

The Code of Ethics and Conduct for NSW government sector employees requires employees to disclose actual, potential or reasonably perceived conflicts of interest between an employee's personal interests (including personal relationships) and their official duties. This may require disclosure of a current or previous relationship between an employee and another worker in some circumstances. [Include reference to the agency's Conflict of Interest Policy].

Reports of sexual harassment during or following the breakdown of a consensual relationship should be handled with care. Just because two individuals are, or used to be, in a consensual sexual relationship does not preclude the possibility of sexual harassment during or following the end of the relationship. Risk factors include where there has been a relationship breakdown or where the relationship involved employees with unequal power dynamics within an organisation.

### **Where and How Sexual Harassment May Occur**

Sexual harassment can occur beyond the usual workplace and outside normal working hours. For example, workplace sexual harassment can occur in settings where there is a connection to employment, including:

- where a worker is working remotely, including if the person's workplace is their home
- in a place where the worker is undertaking work at a different location (e.g. at another business premises)
- at social functions in connection with the team/workplace
- in vehicles while on the way to/from work functions or meetings
- online via use of technology and social media
- any other location in situations where the conduct commenced in the workplace and continued outside the workplace and vice-versa.

Sexual harassment can occur through electronic means (e.g. emails, text messages, sending links to pornographic websites and through social media), regardless of whether sent during work hours or not. Where there is a link to employment (i.e. involving communications between workers), workers are subject to the same rules about sexual harassment in the virtual world as they are in the real world.

In line with CCGT's Social Media Policy" workers are required to use technology and social media responsibly in the workplace and must treat others with dignity, courtesy and respect, and not engage in sexual harassment or condone sexual harassment by others.

### **Prevention**

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

An employer who fails to maintain a safe workplace may be held liable under common law or under applicable work health and safety legislation. From 1 December 2023, an employer who fails to discharge its positive duty to prevent sexual harassment may be required to comply with an enforcement notice. An employer may also be held liable for sexual harassment by workers under anti-discrimination legislation if they fail to take all reasonable steps to prevent the harassment.

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. Factors that point to a sexually hostile workplace include the display of obscene or pornographic materials, general sexual banter, crude conversation or innuendo, and offensive jokes. It should be noted that even if such conduct does not amount to sexual harassment, it may be unlawful because it subjects another person to a workplace environment that is hostile on the ground of sex, and may breach the employer's positive duty to prevent such unlawful conduct.

### **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**

CCGT will ensure all relevant personnel are trained to appropriately respond to disclosures of sexual harassment and will 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.

### **Reporting Sexual Harassment**

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

CCGT will take all reports of sexual harassment seriously. The response to the report will be guided by the person making the report.

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.

## **Responding to and Reporting Sexual Harassment as a Bystander**

CCGT strongly encourages and supports bystanders to call out and report inappropriate behaviour where it is safe for them to do so. Bystanders who witness sexual harassment are encouraged to:

- provide support to the person who is being subjected to sexual harassment
- report sexual harassment.

## **A Range of Reporting Pathways**

Options available to report sexual harassment include:

- seeking support, advice and making a disclosure
- reporting internally to either your Field Officer, or to CCGT Senior Management
- 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 either their Field Officer, or CCGT Senior Management to raise concerns, receive support and discuss options that could help resolve the issue
- access the Employee Assistance Program, refer to CCGT's 'Employee Assistance Program Policy'
- seek advice from an external body, e.g. Australian Human Rights Commission, Anti Discrimination NSW or Safe Work NSW

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 either a CCGT Field Officer, or to CCGT Senior Management.

Where a report of sexual harassment is received, CCGT 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 .

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.

## **Responding to Reports of Sexual Harassment**

CCGT 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, CCGT must deal with the allegation in accordance with any applicable legislation. This includes making an initial assessment of whether the allegation is vexatious or trivial, whether the conduct does not amount to misconduct, or whether there is likely to be difficulty in establishing the facts of the matter.

CCGT 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, CCGT 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. CCGT 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.

CCGT is also obligated to take measures to eliminate acts of victimisation in relation to sexual harassment complaints.

## **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 Field Officer, or CCGT Senior Management speaking to the alleged harasser about their behaviour
- facilitating/mediating an open and respectful conversation between the parties (mediation will only occur with the full and informed consent of both the person reporting the behaviour and the alleged harasser)
- putting system changes in place to prevent further issues, e.g. moving or changing the shifts of the alleged harasser
- refresher training on the requirements of this policy.

## **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, CCGT will conduct an investigation.

### **Formal Investigation**

Where a formal investigation is appropriate or is the preference of the person impacted, [insert agency] will appoint an internal or external investigator to investigate the allegation/s and make factual findings, and report to [insert agency], 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.

CCGT 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.

### **Procedural Fairness**

CCGT acknowledges that for workers who are the subject of allegations of wrongdoing, the experience may be stressful. CCGT 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 CCGT 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 – noting that this conduct may itself amount to misconduct.

### **Confidentiality, Privacy and Transparency**

CCGT 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, e.g. through the Employee Assistance Program, bringing a support person to meetings.

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 (e.g. child protection, serious indictable offence), CCGT may need to notify appropriate authorities.

Once the matter is finalised, CCGT will not restrict the impacted person's right to speak in their personal capacity.

### **Possible Outcomes**

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.

Where a serious allegation of sexual harassment is substantiated, it is likely this will be found to be misconduct and disciplinary action will follow.

### **Restorative Actions for the Impacted Person(s)**

CCGT 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.

### **Criminal Matters**

Where a report of sexual harassment is made that may involve behaviour constituting a criminal offence (e.g. sexual assault, indecent exposure, stalking, obscene communications), CCGT Senior Management should immediately be contacted for advice.

In general, CCGT 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.

### **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.

### **Record Keeping**

CCGT 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.

Records are kept in accordance with applicable legislation.

### Advice and Support Services

- Australian Human Rights Commission  
[www.humanrights.gov.au](http://www.humanrights.gov.au)  
Info Line: 1300 656 419 (local call)  
TTY: 1800 620 241 (toll free)  
Fax: (02) 9284 9611  
Email: [infoservice@humanrights.gov.au](mailto:infoservice@humanrights.gov.au)
- Anti Discrimination NSW  
<https://www.antidiscrimination.justice.nsw.gov.au/>  
Phone: (02) 9268 5544  
Free call: 1800 670 812  
Email: [complaintsadb@justice.nsw.gov.au](mailto:complaintsadb@justice.nsw.gov.au)
- Community Legal Centres Australia  
[www.naclc.org.au/directory](http://www.naclc.org.au/directory)  
Phone: (02) 9160 9500
- NSW Police Force  
Phone: 000 (for emergencies)  
13 14 44 (Police Assistance Line – for non urgent police assistance)
- Fair Work Commission  
<https://www.fwc.gov.au/about-us/contact-us>  
Phone: 1300 799 675
- SafeWork NSW  
<https://www.safework.nsw.gov.au/contact-us>  
Phone: 13 10 50
- NSW Sexual Violence Helpline (formerly NSW Rape Crisis)  
[https://dvnswsm.org.au/dvsm\\_directory/nsw-sexual-violence-helpline/](https://dvnswsm.org.au/dvsm_directory/nsw-sexual-violence-helpline/)  
Phone: (02) 9621 0800 (provides support for people escaping/experiencing domestic and family violence and homelessness)
- Lifeline Australia  
<https://www.lifeline.org.au/>  
Phone: 13 11 14 (24 hour crisis support)
- 1800 RESPECT  
<https://www.1800respect.org.au/>  
Phone: 1800 737 732 (24 hour support for those experiencing or at risk of experiencing domestic, family or sexual violence)
- Rainbow Sexual, Domestic and Family Violence Helpline  
<https://fullstop.org.au/contact-us>  
Phone: 1800 497 212 (24 hour support for anyone from the LGBTIQ+ community whose life has been affected by sexual domestic and/or family violence)
- QLife  
<https://qlife.org.au/>  
Phone: 1800 184 527 (3pm – midnight – provides anonymous and free LGBTIQ+ peer support and referral for people in Australia wanting to talk about sexuality, identity, gender, bodies, feelings or relationships)
- Law Access NSW  
<https://www.lawaccess.nsw.gov.au/>  
Phone: 1300 888 529 (9am to 5pm, Monday to Friday (excluding public holidays) a free government telephone service that provides legal information, referrals and in some cases, advice for people who have a legal problem in NSW)

- NSW Women's Legal Service  
<https://www.wlsnsw.org.au/>  
Phone: (02) 8745 6988  
1800 801 501 (rural) (9:30am – 12:30pm Monday, 1:30pm – 4:30pm Tuesday, 9:30am – 12:30pm Thursday)  
Free confidential legal information, advice and referrals for women in NSW with a focus on family law, child care and protection, Victims Support, and sexual assault.
- Wirringa Baiya Aboriginal Women's Legal Centre  
<https://www.wirringabaiya.org.au/>  
Phone: 1800 686 587 (9am – 5pm) a NSW state-wide community legal centre for Aboriginal and Torres Strait Islander women, children and youth.

Endorsed by the Board of Directors on .....

26/5/24



CCGT Chairman



CCGT Senior Manager