



## POLICY

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## Sexual Harassment

### Introduction

TLCFM will fiercely defend the right of every member and volunteer to perform their work without being subjected to sexual harassment. Each member is responsible for providing an environment that is supportive of this aim. Everyone must treat everyone else with respect and must aim to act as a beacon for good behaviour in the workplace.

It is the obligation and responsibility of every member to ensure that the workplace is free from sexual harassment. Everyone working at TLCFM is responsible for the care and protection of our people and for reporting information about suspected sexual harassment.

TLCFM is fully committed to its obligation to prevent and eliminate sexual harassment in the workplace.

### Purpose

The purpose of this document is to outline TLCFM's position on sexual harassment and to document the process which is to be followed should any grievances arise.

### Definitions

Sexual harassment means any unwelcome sexual advance, unwelcome request for sexual favours, or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated or intimidated, and where that reaction is reasonable in the circumstances. Examples of sexual harassment include, but are not limited to:

- staring or leering
- unnecessary familiarity, such as deliberately brushing up against you or unwelcome touching
- suggestive comments or jokes
- insults or taunts of a sexual nature
- intrusive questions or statements about your private life

- displaying posters, magazines or screen savers of a sexual nature
- sending sexually explicit emails or text messages
- inappropriate advances on social networking sites
- accessing sexually explicit internet sites
- requests for sex or repeated unwanted requests to go out on dates
- 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.

Behaviour that is based on mutual attraction, friendship and respect is not sexual harassment.

## **Policy**

TLCFM will not tolerate sexual harassment under any circumstances. Responsibility lies with every Board member, member and volunteer to ensure that sexual harassment does not occur.

Both Federal and State Equal Employment Opportunity legislation provide that sexual harassment is unlawful and establish minimum standards of behaviour for all members.

This policy applies to conduct that takes place in any TLCFM work-related context, including conferences, functions and social events.

No member should subject any other member or person to any form of sexual harassment.

A breach of this policy will result in disciplinary action, up to and including termination of membership.

TLCFM strongly encourages any member who feels they have been sexually harassed to take immediate action. If a member feels comfortable in doing so, they can raise the issue with the person directly with a view to resolving the issue by discussion. The member should identify the harassing behaviour, explain that the behaviour is unwelcome and offensive and ask that the behaviour stops.

However, given the seriousness of sexual harassment, we recommend that this discussion happens in consultation with the President or a Board member.

Alternatively, or in addition, they may report the behaviour in accordance with the relevant procedure. Once a report is made, the organisation will determine how the report should be dealt with in accordance with its obligations and this policy.

Any reports of sexual harassment will be treated seriously and promptly with sensitivity. Such reports will be treated as completely confidential but the person the subject of the complaint must be notified under the rules of natural justice. The organisation will protect all those involved in the process from victimisation.

Complainants have the right to determine how to have a complaint treated, to have support or representation throughout the process, and the option to discontinue a complaint at any stage of the process.

The alleged harasser also has the right to have support or representation during any investigation, as well as the right to respond fully to any formal allegations made. There will be no presumptions of guilt and no determination made until a full investigation has been completed.

No member will be treated unfairly as a result of rejecting unwanted advances. Disciplinary action may be taken against anyone who victimises or retaliates against a person who has complained of sexual harassment, or against any member who has been alleged to be a harasser.

All members have the right to seek the assistance of the relevant tribunal or legislative body to assist them in the resolution of any concerns.

Supervisors or Board members who fail to take appropriate corrective action when aware of harassment of a person will be subject to disciplinary action.

### *Responsibilities*

It is the responsibility of the Board to ensure that:

- they understand and are committed to the rights and entitlements of all members to attend work and perform their duties, without fear of being sexually harassed in any form
- they understand what constitutes an act of sexual harassment
- all reasonable steps are made to eliminate sexual harassment
- all members are regularly made aware of their obligations in relation to providing a workplace free from sexual harassment
- they provide an environment which discourages harassment and victimisation and set an example by their own behaviour
- they treat all complaints seriously and confidentially
- they take immediate and appropriate corrective action if they become aware of any offensive action or illegal behaviour
- policies and procedures are regularly reviewed and (if necessary) amended
- policies and procedures are complied with
- regular guidance and education are provided to members regarding sexual harassment and inappropriate behaviour in the workplace
- ongoing support and guidance are provided to all members in relation to the prevention of sexual harassment.

### *Complaint Process*

Sexual harassment can occur at any level of the organisation, can be experienced by both men and women and may involve a member, volunteer, supervisor, service provider, sponsor or visitor. Lack of intent is no defence in sexual harassment cases.

Members who believe they are the subject of sexual harassment should take firm, positive and prompt action.

Where possible, the member should make the perceived harasser(s) aware that they find their behaviour offensive, unwelcome, unacceptable, and that it needs to stop immediately.

If the behaviour continues, or if the member feels unable to speak to the person(s) directly, they should contact the President. Alternatively, a member may contact another Board member they feel comfortable with.

The President or Board member will provide support and ascertain the nature of the complaint and the wishes of the complainant.

#### *Informal Intervention*

The President or Board member will explain the member's rights and responsibilities under the organisation's policy, procedures and anti-discrimination legislation.

Informal intervention may be undertaken through a process of mediation or conciliation. During informal intervention the alleged harasser will be made aware of the allegations being made against them and given the right to respond.

This procedure will be complete when the complainant and the respondent come to an agreement on the procedure to be followed.

#### *Formal Complaints Procedure*

The Board may be obliged to carry out a formal investigation in relation to a complaint of sexual harassment.

The formal procedure will be coordinated by the President, who will be guided by the Board as appropriate.

Formal investigations may be conducted internally or by an external investigator.

An investigation involves collecting information about the complaint and then making a finding (on the balance of probabilities) based on the available information as to whether or not the alleged behaviour occurred. Once a finding is made, the investigator will make recommendations about resolving the complaint or implementing disciplinary action (including and up to termination of membership).

The investigator may need to interview the parties involved (which may include the complainant, the respondent, and any witnesses) to obtain information regarding the complaint. The investigator will comprehensively and accurately document all information obtained during the interviews including the parties involved, timing, location, and nature of conduct complained against.

If the investigator considers it appropriate for the safe and efficient conduct of an investigation, workplace participants may be stood down or provided with alternative duties during an investigation.

Throughout the investigation process, all parties involved in the investigation will be regularly kept informed about the investigation.

Records are to be kept and filed in a confidential and secure place. These records should be kept for a period of seven years.

On the basis of the findings, possible outcomes of the investigation may include, but will not be limited to, any combination of the following:

- counselling
- disciplinary action against the harasser (eg suspension, probation or termination of membership)
- official warnings
- disciplinary action against the person who complained if there is strong evidence that the complaint was vexatious or malicious
- formal apologies and undertaking that the behaviour will cease

- conciliation/mediation conducted by an impartial third party where the parties to the complaint agree to a mutually acceptable resolution.

On completion of the investigation, all parties will be informed about the investigation findings and the outcome of the investigation – as appropriate and in line with confidentiality obligations.

Following an investigation concerning a sexual harassment complaint (irrespective of the findings), the President will:

- consult with the parties involved to monitor the situation and their wellbeing
- educate and remind all members of their obligations and responsibilities in relation to providing a workplace free from harassment.

If there has been any substantiated victimisation, disciplinary procedures will be followed.

#### *Procedures for Dealing with Criminal Conduct*

Some forms of sexual harassment (eg sexual assault, stalking, indecent exposure, physical molestation, obscene phone calls) may constitute criminal conduct.

Such complaints should be dealt with by the relevant authorities (such as the police) as part of the criminal justice system.

#### **TLCFM Compliance Obligations**

The Board is responsible for the development, operation and review of this policy.