

SEXUAL HARASSMENT

POLICY, PROCEDURES AND
GUIDELINES FOR
THE
PREVENTION AND ELIMINATION
OF SEXUAL HARASSMENT

Brisbane Catholic Education Schools

**Catholic Education
Archdiocese of Brisbane**

TABLE OF CONTENTS

1.0	INTRODUCTION	1
2.0	POLICY STATEMENT	2
	Scope of Policy	2
3.0	DEFINITION OF SEXUAL HARASSMENT	3
	Responsibilities	5
	<i>Employee's Responsibilities</i>	5
	<i>Employer's Responsibilities</i>	5
4.0	ROLE OF THE EXECUTIVE DIRECTOR	6
5.0	ROLE OF THE PRINCIPAL	7
6.0	ROLE OF HARASSMENT CONTACT OFFICER	8
7.0	ROLE OF THE AREA SUPERVISOR	9
8.0	ROLE OF UNIONS	10
9.0	PREVENTING AND RESOLVING CASES OF SEXUAL HARASSMENT	11
	Personal Resolution	12
	Expression of Concern	12
	Lodge a Formal Complaint	13
10.0	PROCEDURES FOR LODGING A FORMAL COMPLAINT OF SEXUAL HARASSMENT	14
	Lodging A Formal Complaint	14
	Procedures for Investigating/Resolving a Formal Complaint of Sexual Harassment	14
	<i>Resolving Complaints at the Local Level</i>	14
	<i>Resolving Complaints at the System Level</i>	15
	Further Action That Can Be Taken	17
11.0	GENERAL MATTERS PERTAINING TO THE INVESTIGATION OF COMPLAINTS OF SEXUAL HARASSMENT	18
12.0	LEGAL ISSUES	19
	Defamation and Sexual Harassment	19
	Natural Justice	20
	Victimisation	20
	APPENDIX A - COMPLAINTS OF SEXUAL HARASSMENT BY A STUDENT	21
	Considerations for Procedures	21
	Legal Issues	21
	APPENDIX B - TRAINING, EDUCATION AND AWARENESS	22
	APPENDIX C – RESOURCES	25

1.0 INTRODUCTION

1.1 The purpose of this document is to:

- State the policy of Brisbane Catholic Education on sexual harassment within the employer/employee context and between staff members and voluntary workers;
- Outline the general aspects of sexual harassment;
- Define and describe the roles and responsibilities of personnel within Brisbane Catholic Education in the prevention and elimination of sexual harassment;
- Inform employees of the various methods of resolution available and provide guidelines for the resolution of complaints of sexual harassment made by employees or voluntary workers.

1.2 Sexual harassment undermines the rights of the individual, has a debilitating effect on morale and diminishes the very values the organisation seeks to promote.

1.3 The guiding principles behind this policy are:

The guiding principles behind this policy are:

- that all individuals involved are treated fairly and equitably;
- that natural justice is observed;
- that confidentiality is observed;
- that all parties concerned are afforded support and protection;
- that the accused person(s) are afforded an impartial hearing

2.0 POLICY STATEMENT

- 2.1 Any form of sexual harassment is considered to be an unacceptable form of behaviour. All staff at Brisbane Catholic Education are entitled to be treated with dignity and respect in their workplaces.
- 2.2 Brisbane Catholic Education accepts the responsibility to take all reasonable steps to ensure that all employees/voluntary workers are not subject to sexual harassment. All reasonable steps will be taken to ensure that any persons who complain of sexual harassment or who are witnesses to such behaviour are not victimised in any way.

Scope of Policy

This policy applies to all staff in Brisbane Catholic Education schools including contract and voluntary workers.

Under this policy, staff members can initiate a complaint of sexual harassment in the following contexts:

- complaints by staff members against other staff members;
- complaints by staff members against visitors or other persons to schools including parents;

3.0 DEFINITION OF SEXUAL HARASSMENT

3.1 It is unlawful under the *Queensland Anti-Discrimination Act 1991* to sexually harass another person in any area of activity, including employment, education and the provision of services.

3.2 In terms of the Queensland legislation, sexual harassment is defined as follows:

“When a person subjects another person to an unsolicited act of physical intimacy; makes an unsolicited demand or request (whether directly or by implication) for sexual favours from the other person; or makes a remark with sexual connotations relating to the other person; or engages in any other unwelcome conduct of a sexual nature in relation to the other person, and the person engaging in the conduct does so with the intention of offending, humiliating or intimidating the other person; or in circumstances where a reasonable person would have anticipated a possibility that the other person would be offended, humiliated or intimidated by the conduct.”

(Sections 118 and 119 *Queensland Anti-Discrimination Act 1991*.)

3.3 The Commonwealth Sex Discrimination Act describes sexual harassment as "an unwelcome request for sexual favours" or "other unwelcome conduct of a sexual nature".

(Sections 28(4) and 29(3) *Sex Discrimination Act 1984 Cth*.)

Some general characteristics of sexual harassment are outlined as follows:

- Sexual harassment may be an isolated instance or a series of incidents;
- The effect of sexual harassment may be the same whether the conduct was intentional or unintentional. (Even though behaviour which distresses a person may have been unintentional, such behaviour may still constitute sexual harassment.);
- What constitutes sexual harassment to one person may be acceptable and inoffensive to another. Different social or cultural backgrounds may lead people to perceive the same conduct differently;
- Sexual harassment may affect anyone regardless of gender;
- Sexual harassment may impact adversely on an individual's career path or academic prospects because of denial of job and learning opportunities as a result of non-compliance with sexual overtures or by loss of self esteem and confidence;
- Sexual harassment may have an adverse effect on the morale and productivity of a school or work place.

- 3.4 It is inappropriate to provide an exhaustive list of behaviour which would constitute sexual harassment. To do so may result in a form of conduct not being identified as sexual harassment simply because it was omitted from the list.
- 3.5 Sexual harassment encompasses a range of physical and verbal behaviours which may be either implicit or explicit in nature.
- 3.6 The following examples illustrate the wide spectrum of behaviour which could constitute sexual harassment:
- personally offensive verbal comments;
 - sexual or smutty jokes;
 - comments about a person's alleged sexual activities or lifestyle;
 - covert sexual behaviour used to control, influence or affect the career or job of another person;
 - persistent unwelcome social invitations or telephone calls;
 - being followed home from work;
 - unsolicited letters, gifts, faxes, living telegrams (eg strip-a-gram);
 - stares and leers;
 - offensive hand or body gestures;
 - sexual propositions;
 - invading a person's space;
 - physical contact such as patting, pinching, touching, grabbing and fondling;
 - material with a sexist/sexual connotation, eg some works of art, computer software, gifts, posters with a sexual theme or innuendo, magazine articles and centrefolds;
 - indecent exposure.
- 3.7 Under criminal law, some forms of sexual harassment may be considered sexual assault. Such behaviour may include fondling or touching a person without consent and indecent exposure.

Responsibilities

3.8 Both employers and employees have legal and legislative responsibilities in relation to sexual harassment.

Employee's Responsibilities

3.9 Individual employees are asked to report unacceptable behaviour they may experience or witness so that BCEC can address such behaviour in a timely manner and prevent any further incidents occurring.

Employer's Responsibilities

3.10 Sexual harassment is against the law. Therefore employers have a legal duty to ensure that sexual harassment does not occur in the workplace and can be held vicariously liable.

3.11 If a complaint of sexual harassment is substantiated, Brisbane Catholic Education will take action to prevent further incidents. Such actions, depending on the seriousness of the offence, may include:

- counselling;
- disciplinary letter or warning;
- mediation;
- ensuring the respondent attends appropriate inservice or courses on sexual harassment ;
- implementation of the misconduct procedure to address improper conduct;
- relocating or transferring the respondent to another work area;
- termination of employment¹

¹ Pursuant to appropriate procedures being followed.

4.0 ROLE OF THE EXECUTIVE DIRECTOR

- 4.1 The Executive Director of Brisbane Catholic Education has the responsibility to take all reasonable steps to ensure that appropriate guidelines and procedures are implemented to address the issue of sexual harassment in all schools and workplaces within the Executive Director's area of accountability.
- 4.2 The Executive Director delegates the following:
- a) Policy development, education and training, and review to the Director - Employee Support Services.
 - b) The day-to-day implementation of the policy to the Director - Schools Supervision and Equity.
- 4.3 The Executive Director has the responsibility to take all reasonable steps to ensure that:
- all complaints of sexual harassment are treated seriously, equitably and empathically, and that consideration is given to the privacy of all people concerned;
 - staff are informed of all options available and their right to pursue the option of their choice is respected and supported;
 - accessible and open channels of communication for the lodgement and resolution of complaints of sexual harassment are provided including the availability of a harassment contact officer;
 - principals are aware of their responsibilities and are provided with appropriate guidance and support;
- 4.4 The Executive Director's responsibilities for the prevention and elimination of sexual harassment are not confined to the resolution of current complaints. It may be necessary to continue action even when a complaint has been withdrawn. In serious matters of alleged sexual harassment, the Executive Director may have the duty to:
- investigate the situation in the workplace;
 - inform staff of the nature of sexual harassment and improper conduct;
 - initiate disciplinary action;
 - monitor the situation;
 - through the principal, seek ways and means of improving attitudes and behaviours in the school and workplace;

5.0 ROLE OF THE PRINCIPAL

- 5.1 It is the responsibility of principals to take all reasonable steps to ensure proper standards of conduct are maintained at all times and that sexual harassment in any form is not condoned.
- 5.2 Principals are required to promote an understanding of Brisbane Catholic Education's policy on sexual harassment.
- 5.3 Appropriate necessary actions would include:
- the dissemination of information on sexual harassment and its adverse impact on morale and on the working/learning environment;
 - ensuring their own behaviour complies with these guidelines;
 - taking all reasonable steps to ensure that all staff are aware of the procedures for resolving complaints. The procedures should be publicised and include the appropriate names and contact numbers;
 - arranging appropriate inservice on sexual harassment;
 - taking all reasonable steps to monitor the school environment and ensure that high professional standards of behaviour are maintained and that early corrective action is taken.
- 5.4 Principals are required to respond to and attempt to resolve complaints of sexual harassment within a school.
- 5.5 Appropriate necessary actions would include:
- responding to complaints appropriately and promptly;
 - treating in a supportive way any staff member who complains of sexual harassment;
 - maintaining confidentiality at all times.
- 5.6 Situations may arise, however, where the safety or well being of staff is at risk. In these circumstances the principal has a responsibility to refer the matter to the Director Schools - Supervision and Equity. The confidentiality of the complainant should be protected as far as possible. If the seriousness of the conduct means the Director - Schools Supervision and Equity needs to be informed, the complainant will be advised.

6.0 ROLE OF HARASSMENT CONTACT OFFICER

- 6.1 Part of Brisbane Catholic Education's strategy in the prevention and elimination of sexual harassment is to establish a position of harassment contact officer. The occupant of this position will be available to provide support to persons complaining of sexual harassment or in need of advice concerning sexual harassment issues.
- 6.2 The harassment contact officer will be available to staff who may be reluctant to contact the principal or where the person concerned is unsure as to what action should be taken.
- 6.3 The primary role of the harassment contact officer is to provide confidential advice both to staff experiencing sexual harassment and to principals who may need assistance in addressing an issue at the workplace.
- 6.4 The harassment contact officer will not attempt to resolve matters or deal in any way with the alleged harasser. While the harassment contact officer may assist a staff member to choose what action he/she wishes to initiate, there is no active participation in any investigative process.
- 6.5 The harassment contact officer may, if required, accompany a complainant to interviews but only in a supportive role.
- 6.6 The harassment contact officer is required to:
- provide support to staff members and advise them of their options;
 - listen to the staff member and attempt to resolve the initial distress;
 - ascertain the outcome the complainant wants and provide information on options available to address the matter;
 - keep personal records of meetings with complainants seeking support and advice, where necessary;
 - ensure confidentiality at all times;
- 6.7 The confidentiality of the complainant should be protected as far as possible. Information provided to the harassment contact officer by a staff member should not be passed on without the staff member's consent. Situations may arise, however, where the safety or well being of staff is at risk. In these circumstances the Director - Schools Supervision and Equity has a responsibility to take action. If the seriousness of the conduct means the Director - Schools Supervision and Equity needs to be informed, the complainant will be advised.

7.0 ROLE OF THE AREA SUPERVISOR

- 7.1 The area supervisor provides confidential advice and support to both staff experiencing sexual harassment and principals who may need assistance in addressing an issue at the workplace.
- 7.2 The area supervisor is available as required to provide particular support to staff where there is reluctance to contact the principal or where the person concerned is unsure as to what action should be taken.
- 7.3 The confidentiality of the staff member should be protected as far as possible. Information provided to the area supervisor by a staff member should not be passed on without the staff member's consent. Situations may arise, however, where the safety or well being of staff is at risk. In these circumstances the Director - Schools Supervision and Equity has a responsibility to take action. If the seriousness of the conduct means the Director - Schools Supervision and Equity needs to be informed, the staff member will be advised.
- 7.4 Where a formal complaint is lodged with an area supervisor, he/she informs the Director - Schools Supervision and Equity who will determine the appropriate course of action.
- 7.5 The area supervisor may be delegated by the Director - Schools Supervision and Equity to conduct a formal investigation.

8.0 ROLE OF UNIONS

- 8.1 Staff have the right to approach the relevant union about sexual harassment complaints.
- 8.2 While it remains the responsibility of the employing authority to investigate and resolve complaints of sexual harassment, unions can assist their members by:
- providing support in instances of sexual harassment;
 - providing information on the options open to resolve cases of sexual harassment;
 - assisting members in bringing a complaint before the Anti-Discrimination Commission.
- 8.3 Care and confidentiality should be ensured when communicating a complaint of sexual harassment to a union. The allegation should not be made in the presence of others and it should only be made to the relevant union official.

9.0 PREVENTING AND RESOLVING CASES OF SEXUAL HARASSMENT

9.1 Staff members experiencing sexual harassment should not tolerate the behaviour, seek a transfer or resign. Such actions do not resolve the problem. The harassers may not be confronted with their behaviour and may continue harassing other staff. There are many ways of addressing the potential for and cases of sexual harassment, for example:

- by introducing a sexual harassment policy and ensuring all staff are made aware of its content, meaning and implications;
- focus on improving future working relationships by clarifying what is regarded as acceptable behaviour by all staff;
- principals instituting awareness or preventative measures in a school environment without attributing blame. This is particularly important when potential for harassment is the result of group behaviour which in the past has been regarded as acceptable but now might be perceived to be harassment;
- individuals concerned taking positive action themselves to correct or alter their behaviour.
- by providing informal and formal options for redress which are confidential, timely and objective;
- by introducing fair and equitable reporting procedures;
- by making it known that sexual harassment will not be tolerated through induction, education and awareness programs;
- by informing employees of their rights and responsibilities in relation to sexual harassment;
- by introducing counselling and grievance processes.

9.2 The objectives of the complaints procedures are to:

- Ascertain whether sexual harassment has occurred;
- Provide both informal and formal options for redress;
- Provide support and protection to a person who has been harassed;
- Ensure that there is no recurrence of the sexual harassment which gave rise to the complaint;
- Ensure that there are no reprisals against a staff member who makes a complaint;
- Ensure the situation will be redressed as far as possible in a just and fair manner without causing disadvantage to the complainant;
- Ensure that the workplace is free from sexual harassment.

Personal Resolution

- 9.3 Individuals experiencing sexual harassment may wish to have their concerns addressed without recourse to a formal complaint. They may seek support from a harassment contact officer. Individuals experiencing sexual harassment are encouraged to consider in the first instance approaching the other party to seek private, informal resolution of the matter. Sexual harassment against an individual may often stop if it is made known to the person concerned that he/she finds the behaviour offensive. This is particularly important when the behaviour might have been unintentional.
- 9.4 The principal or area supervisor also may provide support to individuals seeking such a personal approach.
- 9.5 The principal, area supervisor and harassment contact officer would be expected to:
- provide confidential advice and support in relation to possible strategies to deal with the issue;
 - provide clear guidance on investigation procedures;
 - outline all options available internally and externally to Brisbane Catholic Education;
 - maintain confidentiality;
 - inform the staff member of the importance of restricting allegations only to those who need to know;
- 9.6 The principal or area supervisor may be asked to attend a meeting between the parties with a view to resolving the matter. In this instance the principal or area supervisor will maintain an observer status or act as a mediator between the parties. The principal or area supervisor would conduct a follow-up interview to ensure that a satisfactory resolution has been achieved.

Expression of Concern

- 9.7 An expression of concern may be registered by a staff member who is not personally involved but who has observed inappropriate behaviour of a sexual nature in the school environment. The advice of the harassment contact officer may be sought prior to making an expression of concern. Such an expression of concern may be made to the principal or the area supervisor.
- 9.8 Even though an expression of concern does not involve a formal complaint, the employing authority has a responsibility to take action to determine and resolve the situation. Such action may involve any or all of the following:
- inform all employees of strategies and options available for dealing with sexual harassment;
 - monitor and observe the behaviour of the employee(s) concerned;

- discuss with other staff members their comfort and the general atmosphere in the workplace;
- draw attention to the *Brisbane Catholic Education Sexual Harassment Policy* at staff meetings, inservice sessions, or in internal communications. Both the rights and responsibilities of all members of staff should be highlighted at this time.
- Staff members making such an expression of concern should maintain confidentiality at all times.

Lodge a Formal Complaint

9.9 If the person experiencing sexual harassment does not wish to pursue processes as outlined above or if these processes have proven unsatisfactory, the person ("the complainant") may initiate a formal complaint.

10.0 PROCEDURES FOR LODGING A FORMAL COMPLAINT OF SEXUAL HARASSMENT

The following procedures are intended to be a guide only. While every attempt should be made to follow the procedures as they are written, the individual circumstances of each situation may necessitate a deviation from these procedures.

Lodging A Formal Complaint

- 10.1 A formal complaint should be lodged in writing with the principal. If the complaint is against the principal or the complainant feels unwilling or unable to have the matter pursued at the local level, the complaint should be lodged with an area supervisor or the Director - Schools Supervision and Equity.
- 10.2 In formulating a complaint, the harassment must be described and the steps that have already been taken to address the problem should be outlined. It should be made clear that official action is expected and the kind of action and/or outcome expected by the complainant.
- 10.3 The complainant may seek the support of the harassment contact officer both in the formulation of a complaint and in accompanying the staff member to any subsequent interview.

Procedures for Investigating/Resolving a Formal Complaint of Sexual Harassment

- 10.4 On receipt of a complaint, the principal will consult with the area supervisor and the complainant to determine whether the matter is best addressed at the local or system level.
- 10.5 All involved should be reminded of the need for confidentiality and impartiality throughout the process.
- 10.6 The alleged harasser (the respondent) will be made aware of the complaint before an investigation is initiated and will be advised of their rights in accordance with procedural fairness. The respondent will be kept informed of any outcomes during the investigation.

Resolving Complaints at the Local Level

- 10.7 Complaints dealt with at the local level will be investigated and resolved internally within the school and will not involve any external parties.
- 10.8 The process for dealing with a complaint at the local level will include the following actions:
 - interviewing the complainant;
 - interviewing the person against whom the complaint has been made (the respondent);
 - negotiating a resolution between the parties;
 - keeping a signed written record of the steps taken and any outcomes.

- 10.9 This process should take no longer than five (5) working days unless otherwise agreed by the parties and will not involve the interviewing of witnesses.
- 10.10 The interview with the complainant will take place as soon as possible. The complaint will be treated seriously. Complainants will be advised accordingly and reassured of their rights to bring their concerns forward. The complainant must be advised that he/she may have present at the time of interview someone of his or her choosing (the harassment contact officer, a supportive staff member or union official). This support person will act as an observer during the proceedings.
- 10.11 The interview with the respondent will take place as soon as possible. The respondent must be advised that he/she may have present at the time of interview someone of his or her choosing (a supportive staff member or union official). This support person will act as an observer during the proceedings.
- 10.12 The details of the complaint will be provided along with any outcomes suggested by the complainant. The respondent will be invited to respond to all allegations.
- 10.13 Every attempt should be made by the principal to negotiate a satisfactory outcome between the complainant and the respondent. The outcome must also include action required to ensure that no further sexual harassment will occur.
- 10.14 If a satisfactory outcome is negotiated this should be recorded as such and the matter closed.
- 10.15 If a complainant is dissatisfied with the outcome of a complaint, he/she may lodge a written complaint with the Executive Director, Brisbane Catholic Education.

Resolving Complaints at the System Level

- 10.16 The complainant may lodge a written complaint with the Executive Director at any time during the process.
- 10.17 The Executive Director may be notified of a complaint of sexual harassment either through receiving a written complaint directly from the complainant or through referral from school level by either the principal or the area supervisor.
- 10.18 The Executive Director on receipt of a complaint, will immediately instigate an investigation.
- 10.19 Where the matter has already been investigated at the local level, the Executive Director will seek from the person responsible for the initial investigation a report of action to date, details of interviews and other relevant documentation.

10.20 The Executive Director will then determine the most appropriate course of action required to resolve the complaint. This will occur as expeditiously as possible.

10.21 Where the matter has not been previously investigated locally, the Executive Director will either refer the matter back to the school or instigate an immediate investigation conducted by the Director – Schools Supervision and Equity which will include the following actions:

- interviewing the complainant;
- interviewing the respondent;
- where necessary, interviewing any witnesses named by the complainant or the respondent;
- keeping a record of the steps taken;
- maintaining a written record of interviews;
- providing a written report to the Executive Director.

This process should take no longer than twenty (20) working days unless otherwise agreed by the parties..

10.22 The interview with the complainant will take place as soon as possible after a complaint has been lodged. The complainant will be advised that the complaint will be treated seriously and reassured of the right to bring concerns forward.

10.23 The interview with the respondent will take place as soon as possible. The respondent must be advised that he/she may have present at the time of interview someone of his or her choosing (a supportive staff member or union official). This support person will act as an observer during the proceedings.

10.24 At this initial interview the details of the complaint will be provided in writing along with any outcomes suggested by the complainant. The process of the investigation will be explained to the respondent who will be asked to respond within a nominated timeframe. It should be noted that it is not necessary for the respondent to be given access to all documentation but he/she must be made aware of the full nature of the complaint.

10.25 Where necessary, witnesses nominated by either party will be interviewed. These witnesses should be provided with information as to why they are being questioned. Witnesses should be informed of the importance of maintaining confidentiality.

10.26 The report to the Executive Director will include details of the steps taken in the investigation, the results of the investigation² and a recommendation for an appropriate course of action.

² See Unsatisfactory Performance and Misconduct Processes (draft).

Further Action That Can Be Taken

10.27 In the event of an unsatisfactory outcome from internal complaint procedures, the complainant may wish to take the complaint to external agencies for resolution. Some remedies for resolution are outlined below:

- A complaint can be lodged with the Anti-Discrimination Commission under the *Queensland Anti-Discrimination Act 1991*.
- Where a dispute involving sexual harassment is between an employer and employee, a person can lodge a notice of industrial dispute with the Industrial Relations Commission;
- In the instance of sexual assault (refer to 3.7), a complaint can be made to the police or some other relevant authority.

11.0 GENERAL MATTERS PERTAINING TO THE INVESTIGATION OF COMPLAINTS OF SEXUAL HARASSMENT

- 11.1 Should the matter be considered to constitute serious misconduct on the part of a staff member, or involve possible criminal actions, the Executive Director should be informed immediately.
- 11.2 Complainants have the option of changing from one investigation level to another or withdrawing a complaint. Investigation of a complaint may, however, need to proceed even if the complainant no longer wishes to pursue the matter, particularly where the safety or wellbeing of staff members is involved. The Executive Director has the authority to determine that the proceedings continue.
- 11.3 Records should be kept of any formal complaint of sexual harassment and of any follow-up action or counselling. These records must be kept confidential and their access strictly limited to those officers who are involved in the investigation.
- 11.4 For a formal complaint to be proven it will be necessary to show that the alleged conduct did occur. Sexual harassment can be subtle and hard to prove. Complainants should therefore be advised to keep a record of events, facts, dates, times, places, witnesses and action taken.
- 11.5 Where the person responsible for an investigation has reasonable grounds for believing that a complaint has been made in a mischievous, frivolous or vexatious manner, a report should be made to the Executive Director. The Executive Director will consider the matter and both the complainant and respondent will be informed in writing of any decision.
- 11.6 There may be cases where it becomes apparent that the behaviour in question did occur but does not constitute sexual harassment. In such cases the complainant's distress may nonetheless be genuine or the specific complaint may be a symptom of other problems amongst staff in a work area. There may be a need for action to be taken to restore good staff relations in the area and resolve any underlying issues?
- 11.7 Upon being informed of the identity of the complainant the respondent will be informed that they are not to approach the complainant in any way.
- 11.8 Unwelcome behaviour which may not be considered sexual harassment may be investigated under the procedures dealing with sexual harassment and harassment.

12.0 LEGAL ISSUES

Defamation and Sexual Harassment

- 12.1 Complainants and those investigating a complaint are protected against defamation actions where the complaint is made in good faith through the proper channels.
- 12.2 If the complaint is not made in good faith, is motivated by an improper purpose and lodged for a malicious reason without any basis; or if the complainant broadcasts the matter indiscriminately, then the protection is lost.
- 12.3 An allegation that an individual has harassed another involves a serious imputation in relation to an alleged harasser's character which may effect his/her reputation.
- 12.4 Where it is made to a person other than the alleged harasser, it is in the absence of the circumstances set out below, defamatory.
- 12.5 It is not defamatory for the complainant to confront the alleged harasser directly and in private, nor to send a private letter outlining the offensive behaviour as this does not in itself damage a person's reputation.
- 12.6 The possibility of being sued for defamation arises when a complainant conveys the information to anyone other than the alleged harasser or those with a legitimate interest in knowing.
- 12.7 An individual with a recognised legitimate interest in investigating or resolving a complaint, either formally or informally, is protected by the defence of qualified privilege.
- 12.8 The law recognises that statements which would ordinarily be defamatory may be made by a person in the performance of legal, moral or social duty to a person with a corresponding duty to receive it.
- 12.9 Sexual harassment is unlawful under two pieces of legislation in Queensland – the *Queensland Anti-Discrimination Act 1991* and the *Sex Discrimination Act 1994* (Cth). A person who believes he/she has suffered sexual harassment will be protected by qualified privilege (providing the action is taken in good faith) if he/she seeks advice from the harassment contact officer or pursues formal channels of complaint outlined in these guidelines.
- 12.10 Similarly, the harassment contact officer and investigating officers are protected provided they act in good faith in resolving or investigating complaints, and provided they do not communicate information except to those with a proper interest.

Natural Justice

12.11 Individuals accused of sexual harassment in the terms of these guidelines have the right in Common Law to be afforded natural justice.

An accused person has the right to:

- seek legal advice and representation;
- be informed of the nature of the accusation;
- be informed of the identity of the complainant (except in exceptional circumstances);
- respond to the allegations;
- be treated fairly and equitably;
- have the matter handled confidentially;
- be afforded an impartial hearing;
- be advised and supported by a union or another party of their choice.

Victimisation

12.12 Persons who make complaints under the *Queensland Anti-Discrimination Act 1991* or the *Commonwealth Sex Discrimination Act 1984* or who provide information or documents for the purpose of a statutory inquiry are protected against victimisation if they act in good faith. This protection is lost if the allegation is proven to be mischievous, frivolous or vexatious.

Appendix A - COMPLAINTS OF SEXUAL HARASSMENT BY A STUDENT

School teaching and administration staff are facing increasing instances of sexual harassment by students. As the victims of the sexual harassment are employees of Brisbane Catholic Education and the sexual harassment will usually occur on school premises, the employer has obligations under the *Qld Workplace Health and Safety Act 1995*. Therefore any such incidents will be considered as sexual harassment or harassment and be dealt with as such.

Sexual harassment of a member of staff by a student could include:

- Public display or circulation through electronic mail of sexually explicit material, including jokes;
- Sexually explicit and disrespectful comments or notes/letters aimed at a staff member;
- Pornographic material specifically forwarded to, or left where the staff member will see it;
- Defamatory comments or false accusations against the staff member.

Sexual harassment from a student to a member of staff could include:

- A wilful, conscious desire to hurt or frighten;
- Physical and/or verbal threats and sexual assault;
- Rude or suggestive gestures.

This list is representative only, not exhaustive, and should be used as guidance.

Considerations for Procedures

- A.1 In a majority of cases, instances of sexual harassment will be processed using the school's student discipline or behaviour management policy. In more serious or persistent cases, investigations will proceed using the formal procedures outlined previously.
- A.2 The principal must ensure that the student has access to someone who is able to support and advise them throughout the investigation process. The person may be the student's parent or guardian but this is not essential. It may be appropriate for the student's support person to be the school counsellor or a counsellor from outside the school.
- A.3 If a principal needs to interview a student in relation to complaints of sexual harassment, the parents or guardian of the student will be contacted.

Legal Issues

Once a student turns 16, they are classed as an adult student and need to be aware that legal action can be taken against them if they harass a member of staff or another student. If a complaint of sexual harassment is substantiated, the student could be held personally liable.

Appendix B - TRAINING, EDUCATION AND AWARENESS

It is essential to provide principals, administration team, teaching staff and school community with:

- Information and or training on the system *Policy, Procedures and Guidelines for the Prevention and Elimination of Sexual Harassment*, including training in how to manage incidents of sexual harassment, procedures to be followed for incidents, investigating guidelines and relevant legal obligations;
- Information for the broader school community about school programs and requirements based on the policy.

Information on the policy and procedures should be:

- Made available on the Brisbane Catholic Education website and individual school websites;
- Included in induction programs, awareness sessions, school newsletters, parent information booklets, staff handbook;
- Displayed on noticeboards in prominent areas (for students and staff);
- Explanatory information session for all staff via staff meetings and or team briefings (PowerPoint, handouts and pamphlets) including refresher sessions (e.g. in two years time).

Adoption of policy and procedures:

- The school behaviour management policy should be updated to reflect references to sexual harassment pertaining to both staff and students, the contexts in which it may occur and consequences of reported incidents;
- School has a program of evaluation and monitoring e.g.: student/staff/parent surveys, data from behaviour management incidents, reporting system to record incidents of workplace and school sexual harassment;
- Evident in positive ethos and practices are reinforced in whole school activities.

Review of the Impact of implementation of the Policy, Procedures and Guidelines for the Prevention and Elimination of Sexual Harassment

Brisbane Catholic Education will endeavour to manage and improve the practices set out in the *Policy, Procedures and Guidelines for the Prevention and Elimination of Sexual Harassment* through a review in 2004. This review will take the form of a survey/questionnaire distributed via principals early in 2004 for completion by staff, students, parents, or members of the administration team in schools. This survey will enable Brisbane Catholic Education to identify the benefits and challenges presented with the policy.

The aim of the review is to critically analyse the implementation of the policy, its impact and make recommendations/modifications to the existing document where necessary.

Policy, Procedures and Guidelines for the Prevention and Elimination of Sexual Harassment Checklist

The following checklist may assist schools and the Brisbane Catholic Education Office to comply with the requirements of the above policy.

Item	Reference/Resource	Check
Adoption of policy, procedures and guidelines		
The <i>Policy, Procedures and Guidelines for the Prevention and Elimination of Sexual Harassment</i> has been implemented and school practices are aligned with policy	(date of implementation)	
The <i>Policy, Procedures and Guidelines for the Prevention and Elimination of Sexual Harassment</i> is included in: <ul style="list-style-type: none"> • Staff handbook • Parent information booklet • School website etc 	Policy pages	
The broader school community (including students and parents) has been informed of the policy and behaviour expected	Policy pages...	
Staff, students and parents are advised of the procedures to be followed for incidents of sexual harassment.	Policy pages	
The school behaviour management policy contains reference to sexual harassment pertaining to both staff and students and the contexts in which it can occur and consequences of reported incidents		
School has a program of evaluation and monitoring Incidents e.g. <ul style="list-style-type: none"> • staff and student surveys • record of sexual harassment incidents 	See resource appendices	

<p>Explanatory information sessions on the policy have been conducted for all staff e.g.</p> <ul style="list-style-type: none">• PowerPoint, handouts, pamphlets etc• Process in place to induct new staff in the policy• Training registration completed and faxed to BCEC and kept in school file		
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Appendix C – RESOURCES

The following resources have been developed to assist schools and the Brisbane Catholic Education Office to develop cultures free from workplace harassment and sexual harassment .

Human Rights and Equal Opportunity Commission

http://www.hreoc.gov.au/sex_discrimination/sexual_harrassment/index.html

QLD Working Women's Service

<http://www.qwws.org.au/>

Victorian Equal Opportunity Commission

<http://www.eoc.vic.gov.au>

Lawlink NSW

<http://www.lawlink.nsw.gov.au/adb.nsf/pages/harassment>

Anti Discrimination Commission QLD

<http://www.adcq.qld.gov.au/>

Appendix D - Sexual Harassment Staff Survey

1. Are you:

- A member of the teaching staff
- Support or administration staff
- Senior Administration
- Maintenance and outdoor worker
- Cleaner
- Other _____



2. What is your gender?

- Female
- Male

3. Have you witnessed an incident/s of sexual harassment in the workplace?

- Yes
- No

4. Have you been the subject of sexual harassment in the workplace?

- Yes – go to Q5
- No – go to Q11

5. The gender of the person responsible for the sexual harassment?

- Male
- Female

6. What is the position of the person responsible for the sexual harassment?

- Senior administration
- Admin support staff
- Co-ordinator, PAR
- Teacher
- Support or maintenance staff
- Student
- Other _____

7. Identify any possible causal factor of the behaviour?

- Work culture supports such behaviour
- Lack of policy and/or implementation of policy
- Cultural diversity
- Power/jealousy struggles
- Absence of democratic workplace
- Miscommunication
- Other (please specify)_____

8. What event sparked the sexual harassment or discrimination?

- Arrival of new principal, assistant principal, head of department,
- Arrival of new staff member or other person to the school;
- Introduction of new working policy, decision (please specify)_____
- Physical location/isolation of room or office
- Change of job status ie promotion, transfer;
- Staff meeting, power play
- Email, jokes, rumours, innuendo
- Other, please specify_____

9. What form/s did the sexual harassment take?

- personally offensive verbal comments;
 - sexual or smutty jokes;
 - comments about your personal activities or lifestyle;
 - persistent unwelcome social invitations or telephone calls;
 - being followed home from work;
 - unsolicited letters, gifts, faxes, living telegrams (eg strip-a-gram);
 - stares and leers;
 - offensive hand or body gestures;
 - sexual propositions;
 - invasion of personal space;
 - physical contact such as patting, pinching, touching, grabbing and fondling;
 - material with a sexist/sexual connotation or pornography;
 - indecent exposure.
 - Other, please specify_____
-

10. If you experienced such behaviours as above, how did this affect you?

- Anxiety
- Depression
- Loss of confidence
- Other (please specify)_____

11. Do you believe the BCE Schools Policy, procedures and guidelines for the prevention and elimination of sexual harassment has been effectively implemented?

- Yes
- No

12. Possible solutions you think would be effective in eliminating sexual harassment:

- Individuals being aware of their rights and responsibilities
- Education of staff
- Addressing specific issue/s that trigger the sexual harassment etc
- Total school climate/culture
- Conflict resolution strategies
- Appropriate policies and procedures in place
- Other (please specify)_____

13. Any other comments, feelings, observations or suggestions?
