



SEXUAL HARASSMENT POLICY AND PROCEDURES

Sexual Harassment Policy:

TNL Consultants Pty Ltd's personnel, course participants and customers have the right to work and learn in an environment free from sexual harassment. Sexual harassment is unacceptable and degrading behaviour which will not be tolerated, overlooked or explained away:

- sexual harassment erodes an individuals' rights and damages those who are subjected to it both personally and professionally,
- sexual harassment in employment, education and accommodation is unlawful under the Western Australian Equal Opportunity Act. It involves physical or verbal conduct of a sexual nature which is uninvited and unwelcome, and
- all forms of behaviour which discriminate against people on grounds of their gender are also against the law.

Objectives:

The objective of this policy and procedure document is to provide management, staff, course participants and clients with information on issues relating to sexual harassment and to:

- . alert management, staff, course participants and clients of their responsibilities for prevention of sexual harassment, and
- . provide clear guidelines and options for action in dealing with sexual harassment should this occur.

DEFINITION

Sexual harassment is defined in Section 24 of the Western Australian Equal Opportunity Act 1984 as follows:

"(3) A person shall, for the purposes of this section, be taken to harass sexually another person if the first-mentioned person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the other person, or engages in other unwelcome conduct of a sexual nature in relation to the other person, and -

- (a) the other person has reasonable grounds for believing that a rejection of the advance, a refusal of the request or the taking of objection to the conduct would disadvantage the other person in any way in connection with the other person's employment or work or possible employment or possible work; or*
- (b) as a result of the other person's rejection of the advance, refusal of the request or taking of objection to the conduct, the other person is disadvantaged in any way in connection with the other person's employment or work or possible employment or possible work."*

SEXUAL HARASSMENT

This is behaviour of a sexual nature which is UNINVITED AND UNWELCOME. It includes the IMPROPER ASSUMPTION OF POWER by one person over another. Examples may include but are not limited to:

- kissing and embracing
- patting, pinching, brushing against, touching
- questions about a person's private life or requests for sexual favours
- smutty jokes, or wolf whistles
- displays of sexually graphic material

These actions may be accompanied by intimation that, in return for sexual favours, the victim will be advantaged in the working or learning environment. There may be included or implied a threat and/or a reprisal, if a sexual advance is rejected.

SEX DISCRIMINATION

Some forms of offensive, harassing or discriminatory behaviour may not be of a "sexual" nature but may be directed at a person on the basis of his or her gender.

Behaviour, which discriminates against women in non-traditional training courses, is an example of sex discrimination.

SEXUAL ASSAULT

These behaviours are acts of physical assault of a sexual nature.

Some of the physical acts identified in the definition of sexual harassment, such as kissing or embracing, may be identified as sexual assault.

This behaviour may lead to criminal action. Sexual assault should be reported immediately to the most senior manager or to the Police so that immediate action can be taken.

ROLE OF TNL CONSULTANTS PTY LTD'S MANAGEMENT AND TRAINING STAFF

TNL Consultants Pty Ltd's management has no right to intervene in the personal lives and relationships of staff or course participants, but it does have a responsibility to take action in relation to behaviour that:

- . creates an intimidating, hostile or oppressive work or learning environment,
- . adversely affects an individual's work or academic performance,
- . causes embarrassment, distress or ill health to any employee or student,
- . results in staff requesting severance or leave without pay, resigning or being unfairly dismissed,
- . results in course participants avoiding training or assessment sessions or abandoning courses.

Management has clear responsibilities for ensuring that staff and course participants are not subject to sexual harassment. This includes their responsibility to act as models of responsible and professional conduct in the work and training environment. It is the role of management to:

- . create a working and learning environment free from sexual harassment,
- . ensure that their behaviour does not create or condone circumstances which may lead to sexual harassment,
- . ensure that all staff and course participants are aware of sexual harassment policy and grievance procedures.

SEXUAL HARASSMENT GRIEVANCE PROCEDURES

Sexual Harassment Grievance Procedures have been established to assist TNL Consultants Pty Ltd's management, staff, course participants and clients to use as a strategy to encourage the development of an environment free from sexual harassment and methodology to seek redress where harassment is experienced so that such activity may be ceased.

Trevor Little
Director
TNL Consultants Pty Ltd

SEXUAL HARASSMENT GRIEVANCE PROCEDURES

INFORMAL COMPLAINTS

TNL Consultants Pty Ltd fully supports staff or course participants who believe they have been subject to sexual harassment and who choose to discuss the matter directly with the alleged harasser in an attempt to end the offensive behaviour.

The person harassed may approach the harasser and indicate immediately and directly that she/he objects to the behaviour and demands that it stop. In many cases the harasser may not be aware that their behaviour is offensive and will stop this action and apologise immediately.

Where Complainants are Prepared to Discuss the Matter with their Supervisor or the Alleged Offender's Supervisor

Staff or course participants can approach their supervisor (training or workplace training based) or the supervisor of the person harassing them, explain the situation and request the supervisor's intervention. The complainant can expect that the request will be considered seriously and sympathetically by the supervisor and that solutions will be determined by the supervisor and the complainant which are acceptable to the complainant.

When a supervisor as a contact officer is approached she/he should make a practical attempt to sort the problem out on the spot, without it becoming a formal complaint. The emphasis here is on resolving the complaint and the re-establishment of good working or learning relationships, now and in the future. Outcomes must be acceptable to the complainant, (provided the complaint is not actuated by malice).

The emphasis is not on investigation and there is no need to prove whether the matter happened or not.

CONFIDENTIALITY

It is essential that all information regarding sexual harassment complaints be kept confidential for the following reasons:

- . the complainant has a right for their complaint to remain strictly confidential,
- . the possibility of defamation suits against staff or course participants who discuss a complaint indiscriminately,
- . prevention of victimisation of the parties involved, and prompt, successful resolution relies on a minimum number of people being involved in discussions of a complaint,
- . staff and course participants may tend to take sides resulting in escalation of the complaint,
- . the alleged harasser has a right, as a requirement of justice, to expect allegations to be kept confidential.

EQUAL OPPORTUNITY COMMISSION

People wishing to make a complaint about sexual harassment or sex discrimination may choose to go to the Equal Opportunity Commission at any time.

Where a complainant's principal language is not English the support of an interpreter may be required.

For a formal complaint to result in disciplinary action against the harasser it will be necessary to be able to prove, on the balance of probability, that the alleged conduct did occur.

Complainants are advised to keep records of complaints - dates, times, places, names of witnesses and any action taken to make the other person aware that the conduct is unwelcome. These records kept by the complainant should be kept confidentially.

Lodging Complaints with the Commissioner for Equal Opportunity

In most complaints of sexual harassment it has been shown that people want the undesirable behaviour to cease and would accept an apology from the officer or person responding to the complaint and an assurance that the undesirable behaviour will stop.

From TNL Consultants Pty Ltd's point of view this is a desirable outcome, but people associated with making the complaint must make a personal and uninfluenced judgement as to whether they are satisfied with such an outcome.

Section 83 of the Equal Opportunity Act defines who can make a complaint to the Equal Opportunity Commissioner. A complaint may be lodged by an officer on his/her own behalf or by a union or representative on behalf of the complainant.

The advantages of having cases placed before the Equal Opportunity Commissioner are that:

- . the Equal Opportunity Commissioner may reach a conciliated agreement that is mutually satisfactory to all parties;
- . the Equal Opportunity Commissioner is divorced from personal considerations and relationships underlying a case;
- . the Equal Opportunity Tribunal can order the payment of compensation;
- . Equal Opportunity Tribunal decisions are legally binding.

When a case reaches the Equal Opportunity Commissioner, all internal investigations relating to the case being conducted within the agency must cease immediately. Any further investigations must be in response to requests of the Equal Opportunity Commissioner.

In addition, once a complaint of sexual harassment has been made to the Equal Opportunity Commissioner, Section 165 of the Equal Opportunity Act restricts any communication which may be made about particulars of that complaint until the Equal Opportunity Commissioner has commenced to enquire into it.

POLICY INFORMATION

Information contained within this policy and procedures will be made available to all full and part time staff of TNL Consultants Pty Ltd's as a quality training assurance and course participants will be notified of their entitlement of being able to learn in a sexual harassment free environment.

Trevor Little
Director
TNL Consultants Pty Ltd