



# **POLICY**

## **Sexual Harassment Prevention**

### **Policy statement**

MRNSW has a zero-tolerance approach to sexual harassment in the workplace.

All MRNSW members, employees, and contractors have the right to work in an environment free from sexual harassment.

Sexual harassment will not be tolerated under any circumstances.

MRNSW is committed to ensuring that members, employees and the general public are treated with dignity, integrity and respect and providing an environment free from sexual harassment.

MRNSW will manage complaints made about sexual harassment in accordance with this Policy, and other MRNSW policies and SOPs and relevant legislation.

### **Scope and purpose**

This Policy's objectives are to:

- provide an environment free from sexual harassment
- promote respect and dignity in everything MRNSW does
- set standards of behaviour that MRNSW expects members and employees to observe to maintain a healthy and safe working environment free from sexual harassment
- set out prevention, intervention and response measures dealing with allegations of sexual harassment
- provide members and employees with guidance to understand their responsibilities, be aware of the behaviours that may constitute sexual harassment, know how to report sexual harassment and understand how complaints or disclosures about sexual harassment will be handled.

This Policy should be read in conjunction with the *Code of Conduct*.

For employees, this Policy should also be read with their Employment Agreement. However, the Policy does not form part of their terms and conditions of employment.

Any breach of this Policy may result in disciplinary action.

This Policy applies at all times to MRNSW members, employees and other persons while undertaking any activity conducted by MRNSW or associated with performing work or duties and, attending MRNSW events (including but not limited to conferences, functions, Unit Social gatherings, and business trips and meetings) irrespective of where they are held.

## Legislative and policy context

This policy complies with, and is guided by the:

- Fair Work Act 2009 (Cth)
- Age Discrimination Act 2004 (Cth)
- Disability Discrimination Act 1992 (Cth)
- Australian Human Rights Commission Act 1986 (Cth)
- Racial Discrimination Act 1975 (Cth)
- Sex Discrimination Act 1984 (Cth)
- Anti-Discrimination Act 1977 (NSW)

## What is sexual harassment?

Members, employees or contractors must never engage in sexual harassment of any kind.

Sexual harassment is unwelcome conduct of a sexual nature, unwelcome sexual advances, or an unwelcome request for sexual favours in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person being harassed would be offended, humiliated or intimidated.

Sexual harassment is any form of unwelcome sexual attention. Sexual harassment involves humiliation or offence to the victim. It's not fun, flattering or flirting. Sexual harassment can happen to anyone, and it's against the law wherever and whenever it occurs.

Sexual harassment doesn't have to be repeated or ongoing to be against the law.

Sexual harassment doesn't have to be deliberate.

Some sexual harassment matters, such as sexual assault, indecent exposure, stalking or obscene communications, are also criminal offences.

## Examples of sexual harassment

Sexual harassment could be:

- staring or leering
- unwanted physical touching, deliberate brushing up against a person, hugging, massaging or kissing
- engaging in unwanted sexual activities
- sexual or suggestive comments, jokes, taunts or name-calling
- unwelcome requests for sexual engagement
- stalking, sexual assault, indecent assault or rape (which are also criminal offences)
- insinuations about a person's private or sex life or sexual preference
- offensive gestures or staring
- making promises or threats in return for sexual favours
- sending sexually explicit texts, social media messages, or emails
- comments about a person's sex life or physical build and appearance
- comment on a person's dress, sexuality or gender in a derogatory or objectifying manner or a manner that makes them uncomfortable
- pursue or flirt with another person persistently without the other person's consent

- posting inappropriate comments, pictures, videos or blogs on websites
- the display or circulation of sexual material (such as photos, pin-ups, screensavers or pictures) or reading matter (such as emails, faxes, social media links or letters)
- offensive telephone calls, text messages or sexually explicit communications on social media platforms.

## **Strategies to eliminate sexual harassment**

MRNSW may take the following actions to prevent and control exposure to the risk of sexual harassment:

- provide members and employees with training and information on preventing sexual harassment
- maintain a complaint handling system and inform all members and employees on how to make a complaint, the support systems available, options for resolving grievances and the appeals process, and
- regularly review this Policy, the complaint handling system and training.

## **Responsibilities of members and employees**

MRNSW requires all members and employees to comply with this Policy, not tolerate unacceptable behaviour (including sexual harassment), report incidents of sexual harassment to their Senior Officer or Supervisor and maintain privacy during investigations.

If members and employees observe behaviour towards others that you consider to be sexual harassment, you must discuss the matter with your Senior Officer or Supervisor.

Anyone notifying their Senior Officer or Supervisor of potential sexual harassment by a member or employee will not be subject to any adverse treatment, including victimisation, bullying, demotion, etc.

## **Responsibilities of Senior Officers and Supervisors**

Senior Officers and Supervisors must ensure that members and employees are not exposed to sexual harassment.

Senior Officers and Supervisors must demonstrate appropriate behaviour, promote this Policy, treat complaints seriously and ensure that the person who lodges or witnesses a complaint is not victimised.

## **Complaints handling**

The complaints handling system regarding alleged sexual harassment is set out below. It comprises three parts:

**Part 1:** provides an overview of the system.

**Part 2:** sets out how MRNSW deals with complaints, and

**Part 3:** sets out the possible outcomes.

### **Part 1: Overview**

MRNSW strongly encourages any member or employee who feels they have been sexually harassed to take immediate action.

Reports or complaints of sexual harassment will be treated seriously and promptly with sensitivity. They will be treated as completely confidential, but the person who is the subject of the complaint must be notified to afford them natural justice. MRNSW will protect all those involved in the process from victimisation.

A person making a complaint regarding being sexually harassed is called the Complainant. The person accused of the wrongdoing is called the Respondent.

In investigating a complaint, making findings of fact and determining any disciplinary outcome, all parties are afforded procedural fairness and natural justice.

All complaints will be managed as expeditiously as possible. We will aim to make initial contact with the Complainant in relation to their complaint as soon as possible, but no later than two working days after receiving a complaint.

Once a complaint is received, actions may be taken to address any immediate concerns regarding a person's health, wellbeing, safety, and participation in work. The authorised Complaint Handler will make an initial assessment of a complaint to determine the next steps,

Where an investigation is required, it will be undertaken internally or by engaging an external investigator. If an investigation does not proceed, MRNSW will advise the Complainant and provide reasons for this immediately and ensure appropriate support is available to them.

The standard of proof applied to findings of sexual harassment is on the balance of probabilities. This means that the alleged sexual misconduct is found to be more likely to have occurred than not, based on the available evidence.

Complainants and Respondents will be kept informed of the progress of the complaint, including being advised of any delays that may arise, and will be notified of the outcome as soon as possible.

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

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

Disciplinary action may be taken against anyone who victimises or retaliates against a person who has complained of sexual harassment or has been alleged to be a harasser.

Senior Officers and Supervisors who fail to take appropriate corrective action when they become aware of sexual harassment of a person will be subject to disciplinary action.

## **Part 2: Dealing with complaints**

Before lodging a complaint, you may attempt to informally resolve the issues with the other person, such as by telling the person that you find their behaviour offensive, unwelcome, and unacceptable and that it needs to stop immediately. However, this step is not mandatory, and you do not have to lodge a complaint.

You may make a complaint via email or by speaking with your Senior Officer or Supervisor. Complaints made via email to Senior Officers must be and marked "Private and Confidential". You may nevertheless be asked to lodge a written complaint to ensure that all the facts are accurately recorded.

Upon receiving a complaint, the Senior Officer or Supervisor will acknowledge receipt of the complaint in writing, which may be by return email. The complaint will be referred to the Zone Commander via the Unit Commander for members or in the case of employees, shall be referred to the Deputy Commissioner, Operations and Capability. The person handling the complaint is called the Complaint Handler. The Complaint Handler who is dealing with the complaint has the final responsibility for determining the outcome of the complaint.

## **Step 1**

The Complaint Handler will conduct a preliminary inquiry to determine whether the subject matter of the complaint has substance.

After the preliminary investigation, the Complaint Handler may dismiss the complaint without the need for further action in the following circumstances:

- action has been taken, or is being taken to remedy the subject matter of the complaint
- the complaint is malicious, frivolous, or vexatious
- the subject matter of the complaint is trivial
- the conduct complained of occurred too long ago to justify an investigation.

If the Complaint Handler does not dismiss the complaint, Step 2 occurs.

## **Step 2**

The Complaint Handler investigates the complaint. This may involve engaging specialist personnel, such as a lawyer or investigator.

If the alleged conduct poses a risk to the Complainant's health and safety, the Complaint Handler may notify the Respondent that a complaint has been made against them and take steps to ensure that the Complainant is safe from any risks to their health and safety. This may include moving the Respondent to another location or suspending the Respondent.

The Complaint Handler (or the external investigator) will meet with the Complainant to obtain information about the complaint. This may include taking a statement from the Complainant.

If the matter is referred to the NSW Police, MRNSW will suspend the process until the outcome of the police investigation is known.

## **Step 3**

The Complaint Handler will write to the Respondent and notify them that a complaint was made against them. The details of the complaint will be included in the letter.

The Complaint Handler (or external investigator) will meet with the Respondent and invite them to respond to the complaint. Where possible, the Respondent should be provided with detailed information about the complaint at least 48 hours before any interview.

Interviews conducted during steps 2 and 3 may be recorded, but only with the knowledge and express permission of the interviewees.

## **Step 4**

If appropriate, the Complaint Handler will attempt to resolve the matter.

This may involve bringing the Complainant and the Respondent together to discuss the issue. It may be appropriate for the Complaint Handler to use mediation as part of the resolution process. At times, this may involve the use of specialist personnel.

The Complaint Handler will seek the Complainant's views on a resolution meeting with the Respondent or a mediation. The Complaint Handler won't force the Complainant to meet with the Respondent or attend mediation if they don't want to.

The Complainant and the Respondent must keep confidential anything discussed in meetings or mediation.

## **Step 5**

Where Step 4 is inappropriate or does not lead to a resolution, the Complaint Handler will determine the complaint.

The Complaint Handler will write to both the Complainant and the Respondent and set out their determination of the complaint.

## **Step 6**

If the Respondent is found to have sexually harassed the Complainant, they may receive one or more of the sanctions in Part 3.

## **Part 3: Outcomes**

Degrees of discipline are generally progressive and are used to ensure that the Respondent has the opportunity to correct behaviours and support the Complainant.

### **Apology and training**

MRNSW may direct a Respondent to apologise to the Complainant and undergo further training regarding sexual harassment, irrespective of whether they are found guilty of sexual harassment. Failing to comply with a direction to apologise or undergo training may be serious misconduct and could result in disciplinary action.

### **Disciplinary action**

Sexual harassment is serious misconduct. Members or employees found guilty of sexual harassment may be disciplined.

Disciplinary actions for members may include:

- counselling
- reprimand
- suspension, or
- expulsion from MRNSW.

Disciplinary actions for employees may include:

- counselling
- written warning
- final warning, or
- termination of employment.

Disciplinary actions for contractors may include termination of their contracts and being banned from attending MRNSW premises.

Factors that will be considered when determining the level of discipline are:

- the seriousness of the offence
- the time interval and responses to prior disciplinary action(s)
- previous history, or
- mitigating factors

### **Other disciplinary action**

If the Respondent's conduct did not constitute sexual harassment but amounted to a breach of MRNSW's SOPs, policies or the employee's Employment Agreement, the Respondent may be

disciplined under relevant SOPs or Policy, or the employee's employment may be terminated under their Employment Agreement.

## **Consequences of breach of this policy**

Any breach of this Policy may result in disciplinary action.

Disciplinary action will be taken against members, employees or contractors who harass or bully a Complainant or a person who witnesses the conduct alleged in a Complaint.

Disciplinary action may involve a warning, reprimand, counselling, suspension, termination or expulsion from MRNSW.

## **Roles and responsibilities**

The Commissioner is the approver of this Policy and is accountable for the broad implementation of this Policy; Zone Commanders are responsible for ensuring members are aware of this Policy; all members and employees are responsible for adhering to this Policy.

## **Related documents**

Documents that relate to the Code of Conduct can be found in the files section in OTTER and are listed below:

- Marine Rescue NSW Constitution
- Marine Rescue NSW Rules
- Marine Rescue NSW Code of Conduct
- SOP ADM05: Discipline of members and employees
- SOP ADM06: Grievance
- SOP ADM09: Suspension
- Bullying and Harassment Prevention Policy
- Sexual Harassment Prevention Policy

## **Support and advice**

Further support, guidance, and advice in relation to the contents of this Policy can be sought from the relevant Zone Commander or MRNSW HQ Member Services at [membership@mrnsw.com.au](mailto:membership@mrnsw.com.au)

If you feel that your health and wellbeing have been affected as a result of being bullied or harassed and you require peer support, the following options are available:

- Critical Incident Support Service: 1800 049 933
- Fortem Australian Clinical services: 1300 339 594
- [Blackdog Institute](#)
- [Lifeline](#): 13 11 14
- [Beyondblue](#): 1300 224 636
- [1800RESPECT national helpline](#): 1800 737 732
- [Sexual Assault Counselling Australia](#): 1800 211 028
- [Kids Helpline](#): 1800 551 800

## Definitions

**Complaint** means a complaint regarding being sexually harassed made in accordance with this Policy.

**Complainant** means any person who makes a complaint of sexual harassment.

**Contractor** means an independent contractor who provides services to another person or business. They aren't employed by that person or business and usually negotiate their own fees and working arrangements. They can work for more than one client at a time. Contractors may also be called subcontractors.

**Employee** means an employee of Marine Rescue NSW.

**Member** means a member of Volunteer Marine Rescue NSW.

**MRNSW** means Volunteer Marine Rescue NSW.

**MRNSW Board** means the Directors of MRNSW.

**Respondent** means a person accused of wrongdoing in a Complaint.

**Senior Officer** means a person holding a position of delegated and lawful authority over a member under the Constitution, Rules, SOPs, or Policies, including; the Board, Commissioner, Deputy Commissioner, Unit Commander, Unit Deputy Commanders, Unit Executives, Zone Commanders and Zone Duty Operations Managers.

**Sexual harassment** is defined as per the [Sexual Harassment Definition on page 3.](#)

**SOP** refers to a MRNSW Standard Operating Procedure.

**Supervisor** means a person who is authorised by their position to supervise or direct Members and Employees, including the Commissioner, Deputy Commissioners, Unit Commanders, Unit Deputy Commanders, Unit Executives, Zone Commanders and Zone Duty Operations Managers.

**Suspension** of a member means suspension under SOP ADM09.

**Suspension of an employee** means a period when an employee is relieved of their job because of alleged serious misconduct, including sexual harassment. Employees may be suspended on full pay when it is necessary to make a full investigation to determine the facts of the case.

**You** or **Your** means members and employees and includes Complainants where appropriate. Approval and document control

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