WORKPLACE SEXUAL HARASSMENT

POLICY NUMBER: NDIS STAFF 20

INTENT

Real Living Options Association Inc. (The Service) will, ensure as far as is reasonably practicable, that the risk of sexual and sex or gender-based harassment in the workplace is eliminated through proactive managed strategies to help ensure the Service complies with Queensland's Work Health and Safety (Sexual Harassment) Amendment Regulation 2024.

The Service has a positive duty of care under work, health and safety legislation to provide and maintain a safe and healthy workplace. The Service also has a positive duty under the Sex Discrimination Act 1984 and has a positive duty under anti-discrimination legislation to take reasonable and proportionate measures to eliminate, as far as possible, sex discrimination, sexual harassment, victimisation and conduct that causes a workplace environment that is hostile to workers because of their sex.

DEFINITION

Ground of Sex or Gender: The "ground of sex or gender" refers to a basis for distinction, classification, or discrimination related to a person's sex (biological attributes such as male or female) or gender (socially and culturally constructed roles, identities and expressions such as man, woman, non-binary, etc.).

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 but are not limited to:
    - 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.

POLICY STATEMENTS

- Real Living Options Association Inc. has a positive duty to eliminate as far as practicable any sexual harassment and related unlawful conduct in the workplace. The Service is committed to creating a safe, diverse and inclusive place to work and does not tolerate sexual harassment, sex-based harassment, or conduct which creates a hostile work environment.
- Where a risk of sexual and/or sex or gender-based harassment in the workplace is identified, a plan will be developed in consultation with employees, or their representatives and is supported by a comprehensive risk assessment with consideration to the characteristics of workers, the workplace and the work environment
- This policy applies to circumstances including, but not limited to:
    - Interactions between workers
    - Interactions between workers and third parties (including Participants and/or their Representative/Nominee, volunteers, contractors and visitors) where that interaction occurs in connection with any work-related activity.
    - On-site, off-site, work-related social functions and conferences – wherever workers are located for work related duties, including working from home.
    - Out of work hours interactions where there is a strong connection to the employment relationship.
    - All aspects of employment, recruitment and selection, conditions and benefits, training and promotion, task allocation, shifts, hours, leave arrangements, workload, equipment and transport.
    - In online spaces, including email, messages including SMS and WhatsApp, via apps including Snapchat, video call and conferencing services (e.g. Microsoft Teams) and social media platforms where the conduct is in connection with the employment (e.g. Remote work and virtual meetings) or involving online communication between workers or between a worker and a third party.
- 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.

PROCEDURES

- All employees are responsible for their own conduct and are required to take reasonable care that their acts or omissions do not adversely affect the health, safety, and wellbeing of others in the workplace. Preventing sexual harassment, sex-based harassment and a hostile work environment in the workplace is everyone's responsibility.
- Anyone engaged by Real Living Options Association Inc. (employees, Management Committee members, volunteers and contractors) who have reasonable grounds to suspect that a person having contact with the Service has been subjected to any form of sexual exploitation, abuse, or harassment, must report the matter immediately (within 24 hours) to the General Manager or a direct supervisor.
- The process for receiving and managing allegations is in accordance with the Service's Policy NDIS STAFF 15 – Complaints and Disputes which can be found on the Real Living Options Association Inc. website and/or by request.
- Any proven acts of workplace sexual harassment will result in disciplinary action. Depending on the circumstances this may involve:
    - Performance management.
    - A formal warning.
    - Termination of employment.
    - Referral of the matter to external authorities.
- Real Living Options Association Inc's Code of Conduct for Staff and Volunteers and the Code of Conduct for Management Committee Members sets out core expectations of all people engaged by the Service, including respectful relationships, non-exploitative behaviour and safeguarding of people with disability. All new employees, volunteers and Management Committee Members are required to read and sign a copy of the relevant Code.
- Breaching the Code of Conduct is considered a serious offence and carries with it disciplinary action, including possible termination and if criminal activity is suspected, reporting to the relevant authorities.
- Real Living Options Association inc. has a zero-tolerance approach to victimisation or detrimental treatment of any person who has made a report or is a witness of reported behaviour. The new positive duty under the Sex Discrimination Act requires all employers to take reasonable and proportionate measures to eliminate:
    - discrimination on the ground of sex or gender in a work context.
    - sexual harassment in connection with work.
    - sex-based harassment in connection with work.
    - conduct creating a workplace environment that is hostile on the ground of sex or gender.
    - related acts of 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 1984 (Cth). Lawful action in relation to an allegation that is proven to be false is a separate matter.
- Victimisation includes treating or threatening to treat someone badly or unfairly because they report unlawful behaviours, assert their rights under the law or help someone else to do so.

DELEGATIONS

General Manager and Support Manager

In addition to their responsibilities as employees, those with management and leadership responsibilities must also:

- Promote a work culture where sexual harassment is unacceptable.
- 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).

All Employees, Management Committee Members, Volunteers and Contractors

All Employees, Management Committee Members, Volunteers and Contractors must;

- Familiarise themselves and comply with this Policy and the Service's Code of Conduct.
- Demonstrate high levels of personal conduct consistent with this policy and their responsibilities under the ethical framework and Code. 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.

RELATED DOCUMENTATION

Code of Conduct for Staff and Volunteers
Code of Conduct for Management Committee Members
NDIS GOV 15 Code of Conduct
NDIS STAFF 15 Complaints and Disputes
NDIS STAFF 14 Discrimination and Harassment
NDIS STAFF 11 Misconduct and Discipline
NDIS STAFF 27 Whistleblower Policy
NDIS SER DEL 7 Privacy Dignity and Confidentiality
Sexual Harassment Plan
Sexual Harassment Risk Assessment

REFERENCES

Sex Discrimination Act 1984 (Cth)
Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Act 2022
Work Health and Safety Act 2011
Australian Human Rights Commission Act 1986
Workplace Gender Equality Act 2012
Fair Work Act 2009
Disability Discrimination Act 1992
Age Discrimination Act 2004
Racial Discrimination Act 1975.

AMENDMENTS/REVIEWS