

2.3 John Pujajangka-Piyirn Catholic School Harassment Policy

RATIONALE

In Catholic Education, Christ is the foundation. All members of the Catholic Education Community are committed to reflecting gospel values in everyday activities and personal encounters. The harassment of any person within Catholic Education is contrary to the Gospel and the vision for Catholic Education. It is also unlawful to harass a person within a workplace and where a person is harassed the employer may be legally responsible. It is not correct to assume that because incidents of harassment are not being reported that harassment is not occurring.

PRINCIPLES

1. John Pujajangka-Piyirn Catholic School is committed to ensuring that the working environment is free from harassment, that harassment will not be tolerated under any circumstances and that disciplinary action will be taken against any employee (or agent) who breaches the policy.
2. Employers may be held vicariously liable for the actions of staff members or others who are found to have harassed a staff member.
3. It is unlawful to sexually harass a person. A person is taken to harass sexually another person: if the person makes an unwelcome request for sexual favours or engages in other unwelcome conduct of a sexual nature; and
 - The other person believes that a rejection or refusal of advance or request or the taking of objection to the conduct would disadvantage the other person in any way in connection with his/her employment or work; or
 - As a result of the other person's rejection or refusal the other person is disadvantaged in any way in connection with his/her employment or work.Sexual harassment can take many different forms and may include physical contact, verbal comments, jokes, propositions, the display or sending of offensive material or other behaviour which creates a sexually hostile working environment. Sexual harassment is not behaviour which is based on mutual attraction, friendship and respect. If the interaction is consensual, welcomed and reciprocated it is not sexual harassment.
4. It is unlawful to racially harass a person. A person shall be taken to harass racially if the person threatens, abuses, insults or taunts another person on the basis of his/her race or imputed characteristics of a race.
5. It is unlawful to harass a person who has a disability in relation to that disability.
6. Workplace bullying is repeated unreasonable behaviour directed toward an employee, or group of employees, that creates a risk to health and safety.¹¹
7. All staff have a responsibility to:
 - Comply with the school's harassment policy
 - Offer support to people who are being harassed and let the person know where help and advice can be obtained (The harasser should not be approached)
 - Maintain complete confidentiality if they provide information during the investigation of a complaint. The spreading of gossip or rumours may expose them to a defamation action.

¹ *Victorian Workcover Authority: Proposed Code of Practice for the prevention of bullying and violence in the workplace. 2002. Pg.8*



8. Immediate disciplinary action will be taken against anyone who victimises or retaliates against a person who has complained of harassment.
9. Employees will not be disadvantaged in their employment conditions or opportunities as a result of lodging a complaint.
10. John Pujajangka-Piyirn Catholic School will ensure that the outcome of the substantiated complaint does not disadvantage the person who was harassed in any way.
11. Throughout the process of investigating a complaint, the rights of all individuals will be respected and confidentiality maintained wherever possible.
12. Harassment, including discrimination and workplace bullying, is a dismissible offence.

DEFINITION: THE CONTACT OFFICER

1. John Pujajangka-Piyirn Catholic School shall appoint/elect a contact officer(s) to assist in preventing and dealing with harassment in the workplace through advice and information. Appropriate training for the Contact Officer shall be provided at the expense of the school.
2. Where a complaint of harassment is to be made against the Principal, the Contact Officer shall refer the matter directly to the Director of Catholic Education or the Congregational Leader.
3. Upon receipt of a complaint, the contact officer shall discuss and determine with the complainant whether an informal or formal process is to be adopted. In the event of a formal complaint, the contact officer shall then record in writing the allegations and include the following details:
 - Name of person registering the complaint
 - Name of person (or persons) alleged to have harassed the complainant
 - Details of the specific incident and any related incidents, including the date and place incidents are alleged to have taken place
 - The names of any staff members who witnessed the event or related events
 - Suggestions of possible resolutions from the complainant
 - Provision of a copy of this record to the Principal with an agreed plan of action. This shall include a discussion with the person (or persons) alleged to have harassed the complainant.
4. The contact officer for John Pujajangka-Piyirn Catholic School is **Kathleen Wallin in 2004 and Lidia Foskett in 2005** who is located at the school.

PROCEDURES

1. Any staff member who believes he or she is experiencing harassment of any nature should follow one of the following options:

1.1 Informal complaint procedures

Informal procedures emphasise an expedient resolution and can be utilised at the discretion of the complainant.

- 1.1.1 Informal procedures are usually appropriate where:

- The allegations are of a less serious nature and
- The parties are likely to have ongoing contact with one another and the complainant wishes to pursue an informal resolution so that the working relationship can be sustained.

- 1.1.2 Informal ways of dealing with harassment can include the following actions:



- The staff member who has alleged harassment may want to deal with the situation personally but may seek advice on possible strategies from a leadership team member or the contact officer(s);
- The staff member who has alleged harassment may ask the contact officer to speak to the alleged harasser on her/his behalf. The contact officer privately conveys the staff member's concerns and reiterates the school's harassment policy to the alleged harasser without assessing the merits of the case;
- A complaint is made, the alleged harasser admits the behaviour, investigation is not required and the complaint is resolved through conciliation or counselling of the harasser;
- The contact officer or a member of the leadership team observes unacceptable conduct occurring and takes appropriate action even though no complaint has been made.

1.1.3 A staff member shall not be required to exhaust informal attempts at resolution before formal action commences. A staff member at any time has the right to formalise his/her complaint or approach an external agency, such as the Human Rights and Equal Opportunity Commission (HREOC). Once an external agency such as HREOC has commenced proceedings the informal, school based investigations shall cease. The Principal shall inform the Employee and Community Relations Team at the CEO.

1.2 Formal Complaint Procedures

Formal procedures focus on proving whether a complaint is substantiated. The Principal shall advise the Employee and Community Relations Team upon receipt of a formal complaint of harassment.

1.2.1 Formal procedures are usually appropriate where:

- Informal attempts at resolution have failed
- The person alleging harassment has been victimised
- The complaint involves serious allegations of misconduct and informal resolution could compromise the rights of the parties
- The complaint is against a senior member of staff and the person believes that formal procedures may help to ensure that the complainant is not victimised or disadvantaged
- The allegations are denied, the person who claims to have been harassed wishes to proceed and an investigation is required to substantiate the complaint
- A person alleging sexual harassment wishes to make a formal complaint from the outset.

1.2.2 Formal procedures shall involve:

- The Principal or delegate investigating the allegation
- Application of the principles of natural justice
- Making a finding as to whether or not the alleged harassment occurred
- Submitting a report with a recommended course of action to the Principal
- Implementation of an appropriate outcome.

1.2.3 to ensure consistency and fairness, the school shall document the steps involved in investigating a formal complaint. The usual sequence of events shall be as follows:

- The complainant is interviewed and the allegations are particularised in writing
- The complaint shall be particularised as precisely and comprehensively as possible including the origin of the complaint and shall be framed in the context of this policy
- The allegations are conveyed in writing to the alleged harasser advising of the process of investigation to be adopted
- The alleged harasser is given the opportunity to respond in writing to the allegations
- The alleged harasser has the right to have representation at any interview/meeting i.e. a colleague, union representative
- If there is a dispute as to facts and the investigator determines a witness is relevant to the allegations made, the investigator interviews and obtains statements from any witnesses



- A finding is made as to whether the complaint has substance on the balance of probabilities, that is, the employer is required to be reasonably satisfied that based on the evidence and facts that are available to it, the alleged harasser 'more probably than not' behaved in the manner alleged
- A report documenting the investigation process, the evidence, the finding and a recommended outcome/s is submitted to the Principal/decision maker
- The Principal/decision maker implements the recommended outcome/s or decides on an alternative course of action.
- Notes will be kept of all incidents - date, time, place, witnesses, what was said or done
- A written explanation of the findings and action taken shall be provided to the person/s making the allegation and the person/s against whom the allegation is made.

1.2.4 The following type of evidence may be relevant:

- Supporting evidence provided by a medical practitioner, counsellor, family member, friend or co-worker
- Supervisor's reports and personnel records (eg. sudden increase in sick leave)
- Factual complaints or information provided by other employees about the behaviour of the alleged harasser
- Records kept by the person claiming to have been harassed
- Whether the parties presented the evidence in a credible and consistent manner.

1.2.5 A formal complaint shall not be dismissed on the ground that no one saw or heard the incident/s occur. Given the nature of the offence, there are often no direct witnesses to alleged acts of harassment. Those responsible for investigating complaints shall consider all available evidence including any surrounding evidence, and make their finding on the balance of probabilities. The Employee and Community Relations Team of the CEO can be contacted on a confidential basis to discuss and provide advice at any time.

1.2.6 Outcomes will depend on factors such as:

- Severity and frequency of the alleged harassment
- The weight of the evidence
- The wishes of the person who was allegedly harassed
- Whether the alleged harasser could have been expected to know that such behaviour was a breach of policy
- The level of remorse
- Whether there have been any prior incidents or warnings.

1.2.7 If there is insufficient proof to decide whether or not the harassment occurred the Principal shall nevertheless:

- Remind those involved of expected standards of conduct
- Conduct further training and awareness sessions for staff
- Monitor the situation carefully.

1.2.8 The only case where no action will be warranted is where it is deemed that the harassment did not take place. Even where it is determined that the behaviour did take place but that it did not constitute harassment, some action shall be taken to reconcile the parties involved.

1.2.9 Outcomes may include any combination of, but are not limited to, the following:

- Counselling
- Formal apologies
- Conciliation/mediation conducted by an impartial third party where the parties to the complaint agree to a mutually acceptable resolution
- Official warnings that are noted on the harasser's personnel file
- Disciplinary action against the harasser (eg. demotion, dismissal, removal of some duties)



- Disciplinary action against the person who complained if there is strong evidence that the complaint was vexatious or malicious
- Reimbursing any costs associated with the harassment
- Re-crediting any leave taken as a result of the harassment.

1.2.10 If the school-based proposed resolution does not resolve the situation, or the person making the allegation does not feel able to follow through with the complaint procedures, or an outside agency such as *Worksafe* contacts the school, the Principal shall contact the Employee and Community Relations Team at the CEO.

Policy adapted : 2004

Policy review :2007

