

EDWAY

TRAINING

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INTRODUCTION

Edway Training recognises the right of every employee and student to be able to attend work/training course and to perform their duties without being subjected to any form of sexual harassment.

It is the obligation and responsibility of every employee and student to ensure that the workplace/ learning environment is free from sexual harassment.

Edway Training is fully committed to its obligation to eliminate sexual harassment in the workplace and learning environment.

PURPOSE

The purpose of this document is to outline Edway Training's position on sexual harassment and to document the process which is to be followed should any grievances arise.

WHAT IS SEXUAL HARASSMENT?

Sexual harassment is unwelcome conduct of a sexual nature towards another person which could reasonably be expected to make that other person feel offended, humiliated or intimidated.

A single incident is enough to be considered sexual harassment - it does not have to be repeated behaviour.

The person engaging in unwelcome behaviour does not have to intend to be sexually harassing the other person for the behaviour to be considered sexual harassment. Regardless of what was intended, sexual harassment is defined by the nature and the impact of the behaviour, not the intention behind it.

Sexual harassment may include:

- comments about a person's sex life or physical appearance
- comments of a sexual nature
- leering and staring
- unwanted touching such as brushing up against a person, fondling or hugging
- 'flashing'
- sexual gestures or imitating a sexual act
- sexual propositions or repeated unwanted requests for dates
- making promises or threats in return for sexual favours
- sexual jokes
- offensive telephone calls, text messages or communications on social media platforms
- displays of offensive photographs, reading matter or objects
- sending jokes or graphics of a sexual nature by email, internet, fax or mobile phone
- unwelcome questioning about a person's private life
- offensive screen savers
- unwanted requests for sex

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- stalking, sexual assault, indecent assault or rape (which are also criminal offences)
- all aspects of employment, recruitment and selection, conditions and benefits, training and promotion, task allocation, shifts, hours, leave arrangements, workload, equipment and transport.

The Equal Opportunity Act 2010 (Vic) addresses sexual harassment in Part 6. Section 92(1) provides: “a person sexually harasses another person if he or she -

a) makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the other person; or

b) engages in any other unwelcome conduct of a sexual nature in relation to the other person -

in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated.”

Section 92(2) provides:

“conduct of a sexual nature” includes –

a) subjecting a person to any act of physical intimacy;

b) making, orally or in writing, any remark or statement with sexual connotations to a person or about a person in his or her presence;

c) making any gesture, action or comment of a sexual nature in a person’s presence.”

Similar provisions apply under the Sex Discrimination Act 1984 (Cth). Sexual harassment can also amount to discrimination on the grounds of gender under both the Commonwealth and State legislation.

Behaviour that is based on mutual attraction, friendship and respect is not sexual harassment.

POLICY

Edway Training will not tolerate sexual harassment under any circumstances. Responsibility lies with every Manager, Supervisor and employee to ensure that sexual harassment does not occur.

Both federal and state Equal Employment Opportunity legislation provide that sexual harassment is unlawful and establish minimum standards of behaviour for all employees.

This policy applies to conduct that takes place in any work-related context, including conferences, work functions, social events and business trips.

No employee or student at any level should subject any other employee, student or visitor to any form of sexual harassment.

A breach of this policy will result in disciplinary action, up to and including termination of employment, or immediate withdrawal of any Training course.

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REPORTING OR MAKING A COMPLAINT

If a complaint of sexual harassment is made, or sexual harassment is observed or brought to the attention of an Employee, it must be acted upon immediately and managed in a sensitive and confidential manner.

Edway Training strongly encourages any employee or student who feels they have been sexually harassed to take immediate action. If an employee or student feels comfortable in doing so, it is preferable to raise the issue with the person directly with a view to resolving the issue by discussion. The employee or student should identify the harassing behaviour, explain that the behaviour is unwelcome and offensive and ask that the behaviour stops.

Alternatively, or in addition, they may report the behaviour in accordance with the relevant procedure. Once a report is made Edway Training has the right to determine how the report should be dealt with in accordance with its obligations and this policy.

Any reports of sexual harassment will be treated seriously and promptly with sensitivity. Such reports will be treated as completely confidential up to the point where a formal or informal complaint is lodged against a particular person, at which point that person must be notified under the rules of natural justice.

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

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

No employee or student will be treated unfairly as a result of rejecting unwanted advances. Disciplinary action may be taken against anyone who victimises or retaliates against a person who has complained of sexual harassment, or against any employee or student who has been alleged to be a harasser.

All employees and students have the right to seek the assistance of the relevant tribunal or legislative body to assist them in the resolution of any concerns.

Managers or Supervisors who fail to take appropriate corrective action when aware of harassment of a person will be subject to disciplinary action.

CONFIDENTIALITY

Disclosures of sexual harassment will be treated in confidence in order to protect an employee's privacy. However, in some instances, a matter may need to be escalated or referred without agreement from the employee/student, particularly in circumstances that may:

- constitute a criminal offence;
- constitute an occupational health and safety risk; or
- require disciplinary action.

If a matter needs to be escalated or referred, the person handling the matter will notify the person who made the disclosure of who has been informed of the disclosure.

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CRIMINAL OFFENCES

Some types of sexual harassment may also be unlawful under criminal law. These include indecent exposure, stalking, sexual assault and obscene or threatening communications, such as phone calls, letters, emails, text messages and posts on social networking sites.

Employees or students who believe they have been the victim of a criminal offence are encouraged to report the incident to Victoria Police as soon as possible, as well as reporting the matter to the National Training Manager or Director of Edway Training.

Edway Training also has a responsibility to deal with allegations of sexual harassment even when the police are or have been involved. This is to determine the appropriate action to be taken in the workplace. In relation to complaints involving employees, close liaison by the National Training Manager and the police is necessary at the outset. This is to ensure that the police investigation is not interfered with or compromised in any way.

Revision History

Creation/ Revision Date	Comment	Created/ Revised by
05/ 10/ 20	Check for clarity and accuracy	Compliance Officer Simon Judge
10/01/19	Policy and procedure created	Compliance Officer Simon Judge