

OCR FM SEXUAL HARASSMENT POLICY

INTRODUCTION

OCR FM recognises it is the right of every volunteer to be able to attend to work and to perform their duties without being subjected to any form of discrimination or harassment. Equally it is the obligation and responsibility of every volunteer to ensure that the workplace is free from discrimination and harassment.

The Sexual Harassment Policy sets out the legal responsibilities and obligations of OCR FM members in relation to sexual harassment under the Sex Discrimination Act 1984 and the Equal Opportunity Act 2010 (Vic). Sexual harassment is an unacceptable form of behaviour which will not be tolerated under any circumstances. OCR FM is committed to providing safe, inclusive and respectful workplaces, which are free from sexual harassment.

PURPOSE

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

DEFINITIONS

Sexual harassment means any unwelcome sexual advance, unwelcome request for sexual favours, or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated or intimidated, and where that reaction is reasonable in the circumstances. Examples of sexual harassment include, but are not limited to,

- staring or leering
- unnecessary familiarity, such as deliberately brushing up against you or unwelcome touching
- suggestive comments or jokes
- insults or taunts of a sexual nature
- intrusive questions or statements about your private life
- displaying posters, magazines or screen savers of a sexual nature
- sending sexually explicit emails or text messages
- inappropriate advances on social networking sites
- accessing sexually explicit internet sites
- requests for sex or repeated unwanted requests to go out on dates
- behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications

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

POLICY

OCR FM will not tolerate sexual harassment under any circumstances. Responsibility lies with every volunteer 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 and volunteers.

This policy applies to conduct that takes place in any context relating to the running of OCR FM community radio station, including conferences, functions, social events, outdoor broadcasts and work undertaken within the studio.

No member or volunteer at any level should subject any other member, volunteer, customer or visitor to any form of sexual harassment.

A breach of this policy will result in disciplinary action, up to and including termination of membership. OCR FM strongly encourages any member who feels they have been sexually harassed to take immediate action. If an member or volunteer feels comfortable in doing so, they can raise the issue with the person directly with a view to resolving the issue by discussion. The member or volunteer should identify the harassing behaviour, explain that the behaviour is unwelcome and offensive and ask that the behaviour stops.

However, given the seriousness of sexual harassment, we recommend that this discussion happens in consultation with a member of the OCR FM Executive Committee. Alternatively, or in addition, they may report the behaviour in accordance with the relevant procedure. Once a report is made the organisation will 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 but the person the subject of the complaint must be notified under the rules of natural justice. OCR FM will protect all those involved in the process from victimisation.

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 member or volunteer 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 member or volunteer who has been alleged to be a harasser.

All members and volunteers have the right to seek the assistance of the relevant tribunal or legislative body to assist them in the resolution of any concerns. Members or Supervisors who fail to take appropriate corrective action when aware of harassment of a person will be subject to disciplinary action.

RESPONSIBILITY

It is **Management's** responsibility to ensure that:

- they understand and are committed to the rights and entitlements of all volunteers to attend work and perform their duties, without fear of being discriminated against or harassed in any form;
- they understand what constitutes an act of sexual harassment;
- all reasonable steps are made to eliminate sexual harassment;
- all employees and volunteers are regularly made aware of their obligations in relation to providing a workplace free from sexual harassment;
- they provide an environment which discourages harassment and victimisation and set an example by their own behaviour;
- [if possible] Equal Employment Opportunity Contact Officers are appointed, trained and known to members;
- they treat all complaints seriously and confidentially; and
- they take immediate and appropriate corrective action if they become aware of any offensive action or illegal behaviour.
- policies and procedures are regularly reviewed and (if necessary) amended;
- policies and procedures are complied with;

- regular guidance and education is provided to members regarding sexual harassment and inappropriate behaviour in the workplace;
- managers are aware of their obligations and responsibilities in relation to sexual harassment, and the rights and entitlements of their members and volunteers;
- ongoing support and guidance is provided to all members in relation to the prevention of sexual harassment.

It is the **Volunteers'** responsibility to ensure that:

- they understand and are committed to the rights and entitlements of all volunteers to attend work and perform their duties without fear of being discriminated against or harassed in any form;
- they provide an environment which discourages victimisation, discrimination and harassment;
- they immediately report any offensive action.

PROCEDURES

Complaints Procedures

Sexual harassment can occur at any level of the organisation, can be experienced by both men and women and may involve a co-worker, volunteer, supervisor, manager, service provider, client or customer. Lack of intent is no defence in sexual harassment cases.

Members or volunteers who believe they are the subject of sexual harassment should take firm, positive and prompt action.

Where possible, the member or volunteer should make the perceived harasser(s) aware that they find their behaviour offensive, unwelcome, unacceptable, and that it needs to stop immediately.

If the behaviour continues, or if the member or volunteer feels unable to speak to the person(s) directly, they should contact a member of the OCR FM Executive Committee.

The Exec Member will provide support and ascertain the nature of the complaint and the wishes of the complainant.

Informal Intervention

The Exec Member will explain the volunteer's rights and responsibilities under anti-discrimination legislation. Informal Intervention may be done through a process of either mediation or conciliation. During Informal Intervention the respondent will be made aware of the allegations being made against them and given the right to respond. This procedure will be complete when the alleged harasser respects the individual's request to cease unwanted and unwelcome behaviour. If this does not occur, the formal procedure should be followed.

Formal Complaints Procedure

The Executive Committee may be obliged to carry out a formal investigation in relation to a complaint of sexual harassment. Formal investigations may be conducted internally (by a manager or officer) or by an external investigator.

An investigation involves collecting information about the complaint and then making a finding (on the balance of probabilities) based on the available information as to whether or not the alleged behaviour occurred. Once a finding is made, the investigator will make recommendations about resolving the complaint or implementing disciplinary action (including and up to termination of employment).

The investigator may need to interview the parties involved (which may include the complainant, the respondent, and any witnesses) to obtain information regarding the complaint. The investigator will comprehensively and accurately document all information obtained during the interviews including the parties involved, timing, location, and nature of conduct complained against.

If the investigator considers it appropriate for the safe and efficient conduct of an investigation, workplace participants may be stood down from work or provided with alternative duties during an investigation in which case they will be paid their normal pay during any such period.

Throughout the investigation process, all parties involved in the investigation will be regularly kept informed about the investigation.

Records are to be kept and filed in a confidential and secure place. If no confidential area is available, these notes may be sealed and forwarded to the OCR FM President or Secretary, and the documents will be maintained, unopened, in a confidential filing system. These records should be kept for a period of seven years. Under no circumstances will records be placed on the complainant's personnel file.

On the basis of the findings, possible outcomes of the investigation may include, but will not be limited to, any combination of the following:

- Counselling;
- Disciplinary action against the harasser (e.g. demotion, transfer, suspension, probation or dismissal);
- Official warnings that are noted in the respondent's personnel file;
- Disciplinary action against the person who complained if there is strong evidence that the complaint was vexatious or malicious;
- Formal apologies and undertaking that the behaviour will cease;
- Conciliation/mediation conducted by an impartial third party where the parties to the complaint agree to a mutually acceptable resolution;
- Reimbursing any costs associated with the harassment;

On completion of the investigation, all parties will be informed about the investigation findings and the outcome of the investigation – as appropriate and in line with confidentiality obligations.

Following an investigation concerning a sexual harassment complaint (irrespective of the findings), the Manager will:

- consult with the parties involved to monitor the situation and their wellbeing; and
- educate and remind all employees and volunteers of their obligations and responsibilities in relation to providing a workplace free from harassment.

If there has been any substantiated victimisation, disciplinary procedures will be followed.

PROCEDURES FOR DEALING WITH CRIMINAL CONDUCT

Some forms of sexual harassment (e.g. sexual assault, stalking, indecent exposure, physical molestation, obscene phone calls) may constitute criminal conduct.

Such complaints should be dealt with by the relevant authorities (such as the police) as part of the criminal justice system.

RELATED DOCUMENTS

- Complaints Policy
- Grievances and Dispute Resolution
- Discrimination and Harassment Policy

This policy was adopted as policy in principle by the OCR FM Committee of Management

Signed *Tyson Graham*

Date 5th June 2023

This Policy is due for review within 24 months of the date shown above.