

HUMAN RESOURCE MANAGEMENT

4.1 HARASSMENT / BULLYING POLICY

Great Southern Group Training Inc. (GSGT) will take all reasonable steps to ensure employees (employees include trainees and apprentices for the purposes of this document) and staff is able to train and work in an environment free from harassment and/or bullying. Whilst there may be subtle differences between the definition of harassment and the definition of bullying, for the purpose of the remainder of this policy the term harassment will cover both.

4.1.1 POLICY OBJECTIVES

- To provide an effective and specific policy framework for ensuring an environment free from harassment for employees, staff and other members of its community and visitors.
- To provide assistance to both staff and students in the definition of harassment.
- To increase awareness in GSGT ethical concerns in interpersonal relationships and the rights of individuals to freedom from harassment.
- To meet obligations under the Disability Discrimination Act (1992), Equal Opportunity Act (1984), Racial Discrimination Act (1975), Racial Hatred Act (1995) and Sex Discrimination Act (1984).

4.1.2 DEFINITION OF TERMS

- **Harassment** consists of unwelcome, offensive, abusive, belittling or threatening behaviour directed at employees or staff which can include physical or psychological behaviours. It is more commonly based on some real or perceived difference such as sex, race or disability and which may lead to the person harassed being offended, humiliated, intimidated or disadvantaged. Harassment of employees or staff is against GSGT policy. Certain forms of harassment may also be unlawful under both State and Commonwealth legislation.
- Harassment can be action(s) against a group or an individual by a group or individual. It may occur among peers, or between people in subordinate/subordinate roles. Harassment should not be confused with legitimate comments or advice that may include criticism of work, workplace behaviour or feedback on students or staff work or performance.
- A **complainant** is a person who claims to be the subject of harassment and who may complain about the experience.
- A **respondent** is a person who is alleged to have acted in a manner which causes the discrimination or harassment and is the person complained about.

- A **client** is a person making an enquiry about harassment. The client may become a complainant or respondent.
- **Conciliation** involves a Grievance Conciliator listening to the perceptions of both parties and then suggesting some form of agreed remedial that is mutually acceptable to the parties involved.
- **Victimisation** - threatening or subjecting a person to any detriment on the ground that the person has made a complaint, or proposes to make a complaint under this policy or related legislation.
- **Sexual Harassment** – as defined in State and Commonwealth legislation and outlined below.
- **Racial Harassment** – as defined in State legislation and below.
- **Disability Harassment** – as defined in commonwealth legislation and outlined below

4.1.3 DEFINITIONS OF HARASSMENT AS DEFINED IN LEGISLATION

4.1.3.1 *Sexual harassment in employment*

1. A person shall, for the purposes of this section, be taken to harass sexually another person if the first mentioned person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the other person, or engages in other unwelcome conduct of a sexual nature in relation to the other person, and-
 - the other person has reasonable grounds for believing that a rejection of the advance, a refusal of the request or the taking of an objection to the conduct would disadvantage the other person, in any way in connection with the other person's employment or work or possible work; or
2. A reference to conduct of a sexual nature in relation to a person includes a reference to the making, to or in the presence of, a person, of a statement of a sexual nature concerning that person, whether the statement is made orally or in writing.

4.1.3.2 *Meaning of sexual harassment*

1. A person sexually harasses another person (the person harassed) if:
 - the person makes an unwanted sexual advance, or an unwelcome request for sexual favours, to the person harassed; or
 - engages in other unwelcome conduct of a sexual nature in relation to the person harassed;

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

4.1.3.3 *Disability harassment*

The definition of a disability, according to the Commonwealth *Disability Discrimination Act 1992* is:

- total or partial loss of the persons bodily or mental functions; or
 - total or partial loss of a part of the body; or
 - the presence in the body of organisms causing disease or illness; or
 - the presence in the body of organisms capable of causing disease or illness; or
 - the malfunction, malformation or disfigurement of a part of the persons body; or
 - a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or
 - a disorder, illness or disease that affects a persons thought processes, perception of reality, emotions or judgement or that results in disturbed behaviour;
1. It is unlawful for a person to harass a person who:
 - has a disability;in relation to the disability.

4.1.3.4 *Racial harassment*

1. A person shall, for the purposes of this section, be taken to harass racially another person if the first mentioned person threatens, abuses, insults or taunts the other person;
 - the other person has reasonable grounds for believing that objecting to the relevant threats, abuse, insults or taunts would disadvantage the other person in any way in connection with the employment or work, or possible employment or possible work, of the other person; or
 - as a result of the objection by the other person to the relevant threats, taunts, abuse or insults, the other person is disadvantaged in any way in connection with the studies, or the application for admission to an educational institution as a student, of the other person.

4.1.3.5 *Racial hatred*

Offensive behaviour because of race, colour or national ethnic origin.

1. It is unlawful for a person to do an act, otherwise than in private, if;
 - the act is reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate another person or group of people; and
 - the act is done because of the race, colour or national ethnic origin of the other person or some or all of the people in the group.
2. For the purpose of subsection (1), an act is taken not to be done in private if it:
 - causes words, sounds, images or writing to be communicated to the public; or
 - is done in a public place; or
 - is done in the sight or hearing of people who are in a public place.

3. In this section: “public place” includes any place to which the public have access as of right or by invitation, whether express or implied and whether or not a charge is made for admission to the place.

4.1.3.6 *Victimisation*

1. It is unlawful for a person (in this section called the “victimiser”) to subject, or threaten to subject, another person (in this section referred to as “the person victimised”) to any detriment on the ground that the person victimised –
 - has made, or proposes to make a complaint under this Act;
 - has brought, or proposes to bring, proceedings against the victimiser or any other person under this Act;
 - has furnished or proposes to furnish, any information, or has produced or proposes to produce, any documents to a person exercising or performing any function under this Act;

4.1.4 IMPLEMENTATION OF POLICY

The General Manager is responsible for ensuring that harassment does not take place at GSGT.

GSGT does not have the right to intervene in personal relationships. It does however have a proper concern where harassment:

- creates an intimidating, hostile or offensive work and training environment;
- adversely affects an individual's performance in work or training;
- adversely affects an individual's employment, promotion or prospects;
- results in resignation, unfair dismissal or withdrawal from training;
- reflects on the integrity and standing of GSGT.

As well as prohibiting the direct harassment of one individual by another in the areas of sexual, racial and disability harassment, the Disability Discrimination Act 1992, Equal Opportunity Act 1984 and Sex Discrimination Act 1984, state that any person who causes, instructs, induces, aids or permits another person to engage in harassment shall be deemed to have done the action also, and shall be penalised accordingly.

GSGT is committed to taking all action necessary to prevent, and where reported, resolve incidents of harassment.

A grievance resolution procedure is in place as a means of resolving complaints at both an informal and formal level.

It is the responsibility of all staff and employees to ensure that proper standards of conduct are upheld. GSGT staff in supervisory positions have a responsibility to ensure that GSGT is free from harassment.

Failure by GSGT to deal seriously with complaints of harassment, or take prompt, effective action, or remedial action, to deal with complaints can be seen as condoning or tolerating such behaviour. If managers or supervisors directly observe harassment taking place, they should not wait for a complaint to be made before intervening, but should address the matter as a management issue.

Staff or employees who become aware of harassment are encouraged to report it to their supervisor.

Confidentiality is paramount when dealing with harassment. Confidentiality guidelines should be adhered to, to minimise the risk of any legal action resulting from breach of confidentiality.

Complaints alleged to have been committed shall be lodged with GSGT within 12 months after the date on which the contravention of this policy is alleged to have occurred. Notwithstanding, GSGT on good cause being shown, may accept a complaint which is lodged later than 12 months.

Where at any stage of an investigation, GSGT is satisfied that a complaint is frivolous, vexatious, misconceived, lacks in substance or relates to an act that is not unlawful by reason of a provision contained in legislation nor in breach of this policy GSGT may, by notice in writing addressed to the complainant, dismiss the complaint.

4.1.5 MONITORING

The General Manager reports to the Board of Management on measures taken to prevent harassment covered under legislation.

The General Manager is responsible for monitoring and implementation of this policy.

4.1.6 RESPONSIBILITY

The general Manager shall be responsible in conjunction with any nominated personnel for preparing procedures which are a guide to the prevention of harassment and complaints resolution. Note: complainants should explore all options for resolution prior to taking action.

State and Commonwealth legislation establishes liability on the part of GSGT for acts done by those employed by it or under its supervision, unless GSGT can demonstrate that all reasonable steps are being taken to prevent prohibited conduct.

In addition to any avenues open under these procedures, any person experiencing harassment has the right to take the problem privately and directly to the equal Opportunity Commission or Human Rights Commission. Other avenues may be available, including the police in the case of criminal activity.

Supervisors must be aware of the policy on prevention of harassment and of their responsibilities for the provision of a harassment free environment.

Supervisors have a particular responsibility to:

- ensure their own conduct is above reproach and that they are aware of the conduct of others under their responsibility;
- communicate this policy to staff and employees;
- encourage and facilitate learning activities designed to identify and eliminate harassment;
- deal promptly and confidentially with harassment complaints;
- ensure that complainants are not victimised.

4.1.7 APPLICATION OF POLICY-OCCURRENCE OF HARASSMENT

Harassment can occur at all levels between any person or group of persons and between those of equal or unequal status within GSGT, and constitutes unacceptable behaviour. GSGT may consider disciplinary action against a proven offender.

4.1.8 RESOLUTION OF COMPLAINTS

Staff in management or supervisory roles, are expected to utilise these guidelines in taking steps to eliminate harassment from GSGT.

Individuals who feel they have been harassed may utilise the GSGT grievance procedure as detailed in the following pages of this policy.

Complainants may also lodge their complaint with the appropriate external authority.

4.1.9 PROCEDURES FOR RESOLUTION OF REPORTED HARASSMENT

A number of actions are available to individuals who feel that harassment has occurred. These actions may be taken in any order and complainants may withdraw their complaint at any time. They are:

1. Solve it yourself
 - do nothing
 - talk to the alleged harasser
 - talk to supervisor or General Manager
2. Follow provisions in the grievance procedure
3. Submit a formal complaint to the Board of Management
4. Access appropriate external agencies

4.1.9.1 Grievance Resolution

It is the right of each party in the grievance to have another person of their choice that may be external to the organisation to be present at any meetings.

The grievance procedure must be fair and equitable and give equal respect to both parties.

Records shall only be kept when the process proceeds to a formal stage. These records are to be kept by the grievance conciliator and are private and confidential. No other personnel may access these records.

4.1.10 CONFIDENTIALITY

It is imperative that all information regarding harassment complaints, or discussions which could lead to a complaint, be kept confidential

Staff with delegated authority involved in resolving the complaint should be protected by qualified privilege, as long as they act strictly within policy.

It is legitimate for those involved in resolving a case of harassment to seek advice and/or assistance from people with expertise in the area. Details of the complaint can be given, confidentially, to an appropriate person with access and equity knowledge without violating the defence of qualified privilege. However, it should be noted that any documentation is subject to FOI legislation.

4.1.11 VICTIMISATION

Experience has shown that sometimes, unfavourable treatment of the complaint, subsequent to the placing of the complaint, puts the person under further stress and can escalate the situation beyond resolution. Such treatment is termed victimisation and is against GSGT policy and may also constitute unlawful activity in some instances.

Victimisation includes any unfavourable treatment, such as aggression, refusing to provide information, ignoring the person, refusing to renew a contract of employment, dismissal or negative work assessment. Victimisation of people making complaints through this grievance procedure will be treated as seriously as the original behaviour giving rise to the complaint.

Supervisory and management staff are responsible for ensuring the victimisation of a complainant does not occur, either immediately, or any time after the complaint has been resolved.

4.1.12 REPORTING

The General Manager will include statistics on the number and types of written complaints and the outcome of each complaint in Management Reports to the Board of Management.

4.1.13 RECORD KEEPING

GSGT shall take all necessary steps to ensure the confidentiality of any grievance. Internal exposure will be limited to staff requiring access for official purposes.

Details of allegations and investigatory notes will be kept in confidential files, separate from the complainants or respondent's personal files, and located in the General Managers office.

The Board of Management shall keep all written complaints to, and records of action by the Board of Management, for a period of 7 years.

4.1.14 RELATED LEGISLATION, POLICIES AND REGULATIONS

- Equal Opportunity Act 1984 (WA)
- Racial Discrimination Act 1975
- Racial Hatred Act 1995
- Sex Discrimination Act 1992
- Disability Discrimination Act 1992
- Occupational Health and Safety act 1984

The General Manager is responsible, with the input and guidance of key personnel, for ensuring that the administrative procedures are updated as required.

4.1.15 EXAMPLES OF HARASSMENT - BULLYING

Harassment may include:

- unwelcome physical contact or coercive behaviour which is intended, or may reasonably be expected to be received as offensive, intimidating, derogatory or likely to cause humiliation;
- insulting or threatening language and or gestures;
- interference with a person's work space, work materials, equipment or property, apart from what would be considered necessary for ongoing work in the particular area or as part of normal work;
- continual unjustified and unnecessary comments about a person's work or capacity for work;
- pictures, posters, graffiti, electronic images and written materials which are offensive, obscene or objectionable;
- phone calls, letters or messages on electronic mail or computer networks which are threatening, abusive or offensive;
- persistent following (stalking)
- dismissive treatment or material expressing prejudice or stereotypic assumptions about the group to which the person may belong; and
- continual exclusion of a person or group from normal conversation, work assignments, work related social activities and workplace networks.

4.1.16 MANAGEMENT AND SUPERVISOR RESPONSIBILITIES

- ensure their own conduct is above reproach and that they are aware of the conduct of others under their responsibility;
- communicate this policy to staff and employees;
- encourage and facilitate learning activities designed to identify and eliminate harassment;
- deal promptly and confidentially with harassment complaints; ensure that complainants are not victimised
- ensure that once a complaint has been resolved, the behaviour is not repeated.

4.1.17 RESPONSIBILITY OF STAFF/EMPLOYEES

- ensure their own conduct is above reproach;
- adherence to GSGT's Harassment Policy and resolution procedures;
- ensure that persons making complaints are not victimised;
- ensure that once a complaint has been resolved, the behaviour is not repeated.