

# Sexual Harassment Policy

Macmahon Holdings Limited (“**Macmahon**”) is committed to ensuring that every employee performs their work without being subjected to sexual harassment. Sexual harassment in our workplaces is an unacceptable form of behaviour which will not be tolerated under any circumstances. In this policy, every reference to an employee shall be read to include any contractor, subcontractor, supplier, client, or visitor to any Macmahon controlled site or otherwise under the control or supervision of Macmahon.

Macmahon aims to:

- create a working environment which is free from sexual harassment and where all employees are treated with dignity, courtesy and respect;
- implement training and awareness raising strategies to ensure that all employees know their rights and responsibilities;
- provide an effective procedure for complaints based on the principles of natural justice;
- treat all complaints in a sensitive, fair, timely and confidential manner;
- provide protection from any victimisation or reprisals;
- encourage the reporting of behaviour which breaches the sexual harassment policy; and
- promote appropriate standards of conduct at all times.

It is the obligation and responsibility of every employee to ensure that the workplace is free from sexual harassment. Everyone working at Macmahon is responsible for the care and protection of our people and for reporting information about suspected sexual harassment.

Macmahon is fully committed to its obligation to prevent and eliminate sexual harassment in the workplace.

## 1. Purpose

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

## 2. What is sexual harassment?

Sexual harassment is 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.

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.

A key element of sexual harassment is that it is unwelcome.

It is important to note that if a person does not object to inappropriate behaviour at the time, it should not be assumed that they are giving their consent. Consent exists where clear and unambiguous consent has been freely given and continues to be given.

Examples of sexual harassment include, but are not limited to:

- uninvited touching;
- uninvited kisses or embraces;
- smutty jokes or comments;
- making promises or threats in return for sexual favours;
- displays of sexually graphic material including posters, pinups, cartoons, graffiti or messages left on notice boards, desks or common areas;
- repeated invitations to go out after prior refusal;
- “flashing” or sexual gestures;
- sex-based insults, taunts, teasing or name-calling;
- staring or leering at a person or at parts of their body;
- unwelcome physical contact such as massaging a person without invitation or deliberately brushing up against them;
- touching or fiddling with a person's clothing including lifting up skirts or shirts, flicking bra straps, or putting hands in a person's pocket;
- requests for sex;
- sexually explicit conversation;
- persistent questions or insinuations about a person's private life;
- offensive phone calls or letters;
- stalking; and
- offensive e-mail messages or computer screen savers.

Behaviour that is based on mutual attraction, friendship and respect is not sexual harassment. If the interaction is consensual, welcome and reciprocated then it is not sexual harassment.

### **3. Policy**

Macmahon 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 at any level should subject any other employee, contractor, worker, client 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.

Macmahon strongly encourages any employee who feels they have been sexually harassed to take immediate action. If an employee feels comfortable in doing so, they can raise the issue with the person directly with a view to resolving the issue by discussion. The employee 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 the relevant manager or dedicated HR representative.

Alternatively, or in addition, they may report the behaviour in accordance with the procedure set out below. Once a report is made, Macmahon 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 confidentially but the person who is the subject of the complaint must be notified under the rules of natural justice. Macmahon will protect all those involved in the process from victimisation.

Complainants have the right to request 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 respondent 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 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 who has been alleged to be a harasser.

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

## **4. Responsibilities**

### **4.1 Responsibilities of management**

Managers and supervisors have a responsibility to:

- monitor the working environment to ensure that acceptable standards of conduct are observed at all times;
- model appropriate behaviour themselves;
- promote Macmahon's sexual harassment Policy and promote awareness of the avenues for advice and the complaints procedures;
- ensure that there are clear processes in place for raising grievances and complaints;
- treat all complaints seriously and take action to investigate and resolve the matter;
- treat complaints of sexual harassment with appropriate sensitivity and confidentiality; and
- refer complaints to another manager or dedicated HR Advisory Team member if they do not feel that they are the best person to deal with the case (for example, if there is a conflict of interest or if the complaint is particularly complex or serious).

### **4.2 Responsibilities of employees**

All employees have a responsibility to:

- comply with Macmahon's sexual harassment policy and the Code of Conduct;
- report any incident of sexual harassment that they have experienced or witnessed;
- participate in any training provided by Macmahon;
- model appropriate behaviour and Macmahon's Values;
- treat any allegations or complaints of sexual harassment with appropriate confidentiality;
- ensure that a person is not victimised for making or being involved in a complaint of sexual harassment; and
- maintain complete confidentiality if they provide information during the investigation of a complaint. Employees that spread gossip or rumours may expose themselves to a defamation action.

## 5. Complaint Process

Sexual harassment may occur at any level of the organisation, may be experienced by both men and women and may involve a co-worker, supervisor, manager, service provider, client or visitor.

Lack of intent is no defense in sexual harassment cases.

Where possible, the employee should make the alleged harasser aware that they find their behaviour offensive, unwelcome, unacceptable, and that it needs to stop immediately. If the behaviour continues, or if the employee feels unable to speak to the person directly, they should contact their supervisor or manager.

Alternatively, an employee may contact a HR representative or a supervisor/manager they feel comfortable with. The supervisor/manager will provide support and ascertain the nature of the complaint and the wishes of the complainant.

## 6. Reporting or making a Complaint

Employees can report or make a complaint about any instance of sexual harassment in the following ways:

- Report the complaint to their supervisor, manager, and/or HR representative;
- Lodging an EEO Complaints Form (G-139); and
- making a complaint under Macmahon's Whistleblower Policy by calling 1800 630 739 which provides a formal channel for reporting any misconduct on a confidential and/or anonymous basis.

Macmahon takes any allegations of sexual harassment seriously.

The procedures for dealing with allegations of sexual harassment and possible consequences regarding any breach of this Policy are managed and investigated in accordance with this Policy and Macmahon's Code of Conduct.

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

Where a complaint of sexual harassment is found to be substantiated, the consequences for the person against whom the complaint is made will depend on the particular circumstances. The consequences may include an apology, counselling, undertaking training, or disciplinary action up to and including termination of employment as per the Counselling, Discipline and Termination Procedure (G-004). Throughout the investigation process, all parties involved in the investigation will be regularly kept informed about the investigation.

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

Employees found to have knowingly provided false information, or knowingly made allegations of sexual harassment without any merit, may be subject to separate disciplinary action.

## 7. Bystander Intervention

Bystanders, including colleagues, who witness or are aware of sexual harassment, can play an important role in preventing sexual harassment in the workplace. When grounded in behaviours of integrity and respect, action taken by colleagues can positively impact on defining workplace culture.

When safe to do so, bystanders that are aware of sexual harassment are encouraged to:

- provide support to the colleague who is being subjected to sexual harassment;
- formally or informally challenge concerning behaviour; and
- report sexual harassment.

The standard that people walk past is the standard that people accept.

In some situations, a witness may wish to remain anonymous and where appropriate, anonymity will be provided. However, it may not be possible in all circumstances to keep the identity of a person, or people providing information, confidential. In some situations, it may be the case that full details of allegations are required for appropriate inquiries to be made or so that a respondent is afforded procedural fairness and natural justice.

## **8. Procedures for Dealing with 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 who believe they have been the victim of a criminal offence are encouraged to report the incident to the Police as soon as possible, as well as reporting the matter to their manager or supervisor.

Macmahon 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.

## **9. Amendments**

This policy may be updated or amended from time to time by Macmahon at its absolute discretion.

Employees can access the most up to date version of this policy on the Macmahon intranet or the Company's website.

## **ATTACHMENTS, REFERENCES AND RELATED DOCUMENTS**

### **References and Related Documents**

[G-262 Code of Conduct](#)

[G-049 Equal Employment and Diversity Policy](#)

[G-139 EEO Complaints Form](#)

[G-004 Counselling, Discipline and Termination Procedure](#)

[G-1147 HR Investigations Procedure](#)

[G-985 Whistleblower Policy](#)