

Sexual Harassment Policy

1. Introduction

- 1.1. Eastern Waste Management Authority (East Waste) will defend the right of every employee to perform their work without being subjected to sexual harassment. Every employee is responsible for providing an environment that is supportive of this aim and must treat everyone with respect.
- 1.2. It is the obligation and responsibility of every employee to ensure that the workplace is free from sexual harassment. Everyone working at East Waste is responsible for the care and protection of our people and for reporting information about suspected sexual harassment.
- 1.3. East Waste is fully committed to its obligation to prevent and eliminate sexual harassment in the workplace.

2. Purpose

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

3. Definitions

- 3.1. **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.
- 3.2. Examples of sexual harassment include, but are not limited to:
 - Staring or leering.
 - Unnecessary familiarity, such as deliberately brushing up against someone or unwelcome touching.
 - Suggestive comments or jokes.
 - Insults or taunts of a sexual nature.
 - Intrusive questions or statements about someone's private life.
 - Displaying posters, magazines or screen savers of an offensive nature.
 - Sending sexually explicit or offensive electronic or hard copy messages.

- Inappropriate advances on social networking sites.
 - Accessing sexually explicit internet sites.
 - Requests for sex or repeated unwanted requests to go out on dates; and
 - Behaviour that may also be considered an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.
- 3.3. Behaviour that is based on mutual attraction, friendship and respect is not considered to be sexual harassment.

4. Policy Statement

- 4.1. East Waste will not tolerate sexual harassment under any circumstances. Responsibility lies with every line manager and employee to ensure that sexual harassment does not occur. No employee at any level should subject any other employee, customer or visitor to any form of sexual harassment. This policy applies to conduct that takes place in any work-related context, including conferences, work functions, social events and business trips.
- 4.2. Both federal and state Equal Employment Opportunity and Workplace Place Health and Safety legislation provide that sexual harassment is unlawful and establish minimum standards of behaviour for all employees. A breach of this policy may result in disciplinary action, up to and including termination of employment.
- 4.3. East Waste strongly encourages any employee who feels they have been sexually harassed to take immediate action. If an employee feels comfortable in doing so, they should 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 line manager(s).
- 4.4. Alternatively, or in addition to, they may report the behaviour in accordance with the relevant procedure. Once a report is made East Waste will determine how the report should be dealt with in accordance with its obligations and this policy.
- 4.5. Any reports of sexual harassment will be treated seriously and promptly with sensitivity. Such reports will be treated as completely confidential however, the person who is the subject of the complaint must be notified under the rules of natural justice. East Waste will protect, so far as possible, all those involved in the process from any victimisation.
- 4.6. 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.
- 4.7. 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.

- 4.8. 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.
- 4.9. All employees have the right to seek the assistance of the relevant tribunal or legislative body to assist them in the resolution of any concerns.
- 4.10. Managers, supervisors, coordinators and/or team leaders who fail to take appropriate corrective action when aware of harassment of a person may be subject to disciplinary action.

5. Responsibilities

- 5.1. It is the responsibility of East Waste management to ensure that:
 - they understand and are committed to the rights and entitlements of all employees to attend work and perform their duties, without fear of being sexually harassed in any form;
 - they understand what constitutes an act of sexual harassment;
 - all reasonable steps are made to eliminate sexual harassment;
 - all employees 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;
 - they treat all complaints seriously and confidentially;
 - they take immediate and appropriate corrective action if they become aware of any offensive action or illegal behaviour;
 - policies and procedures are complied with;
 - regular guidance and education is provided to employees 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 employees; and
 - ongoing support and guidance is provided to all employees in relation to the prevention of sexual harassment.

6. Procedure

6.1. Complaint Process

- 6.1.1 Sexual harassment can occur at any level of the organisation, can be experienced by anyone and may involve a co-worker, supervisor, manager, coordinator, team leader, service provider, client or customer. Lack of intent is no defence in sexual harassment cases.
- 6.1.2 Employees who believe they are the subject of sexual harassment should take firm, positive and prompt action.
- 6.1.3 Where possible, the employee should make the perceived harasser(s) aware that they find their behaviour offensive, unwelcome, unacceptable, and that it needs to stop immediately.

- 6.1.4 If the behaviour continues, or if the employee feels unable to speak to the person(s) directly, they should contact their line manager. Alternatively, an employee may contact an alternate manager that they feel comfortable with.
- 6.1.5 The manager will provide support and ascertain the nature of the complaint and the wishes of the complainant.

6.2. Informal Intervention

- 6.2.1 The manager will explain the employee's rights and responsibilities under East Waste's policy, procedures and Equal Employment Opportunity or anti-discrimination legislation.
- 6.2.2 Informal intervention may be undertaken through a process of mediation or conciliation. During informal intervention the alleged harasser will be made aware of the allegations being made against them and given the right to respond.
- 6.2.3 This procedure will be complete when the complainant and the respondent come to an agreement on the procedure to be followed.

6.3. Formal Complaints Procedure

- 6.3.1 The manager 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 by an external investigator.
- 6.3.2 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 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).
- 6.3.3 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.
- 6.3.4 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.
- 6.3.5 Throughout the investigation process, all parties involved in the investigation will be regularly kept informed about the investigation.
- 6.3.6 Records are to be kept and filed in a confidential and secure place. These records should be kept for a period consistent with the requirements of the States Records Act 1997. Under no circumstances will records be placed on the complainant's personnel file.

6.3.7 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;
- 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;
- mediation conducted by an impartial third party where the parties to the complaint agree to a mutually acceptable resolution; and
- re-crediting any leave taken as a result of the harassment.

6.3.8 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.

6.3.9 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 of their obligations and responsibilities in relation to providing a workplace free from harassment.

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

6.4. Procedures for Dealing with Criminal Conduct

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

6.4.2 Such complaints should be dealt with by the relevant authorities such as the South Australian Police as part of the criminal justice system.

7 Legislation

Fair Work Act 2009 (Cth)

Fair Work Act 1994 (SA)

Local Government Act 1999 (SA)

Work Health Safety Act 2012

Sex Discrimination Act 1984 (Cth)


Work Health and Safety Act 2012 (SA)

8 Related Documents

Eastern Waste Management Authority Charter
Employment Contracts/ EBA
WHS Administration Policy
Code of Practice on Managing Psychosocial Hazards at Work
Behavioural Standards Policy

9 Review

This Policy will be reviewed on a four yearly basis, unless legislative change triggers an earlier review date.

Signed 
Manager Business Services

Date 24 June 2024

Signed 
Chair of East Waste Board

Date 24 June 202

10 Document History

| Version No: | Issue Date: | Description of Change: |
|-------------|----------------|------------------------------|
| 1.0 | September 2021 | New Document, September 2021 |
| 2.0 | June 2024 | Updated |