

# Sexual Harassment Prevention Policy

DOCUMENT CONTROL			
Document Owner	Compliance Manager	Last Review Date	Nov 2023
Version	1.1	Approved by	CST Executive
Status	Under review	Next Review Date	Nov 2026

## 1. Purpose

- 1.1. This Policy aims to identify and address inappropriate behaviours which constitute sexual harassment and provide a mechanism to enable workers within CST to engage in mutual protection, support and encouragement.
- 1.2. Sexual harassment behaviour in the workplace is unacceptable and will not be tolerated. It is contrary to the standards of Christian behaviour expected by CST, as expressed in the Conduct and Lifestyle provisions of CST's Statement of Faith, CST's staff Code of Conduct, and other policies. As such, sexual harassment will result in disciplinary action and could result in the termination of employment.

## 2. Scope

- 2.1. This Policy applies to all workers of Christian Schools Tasmania.
- 2.2. This Policy does not replace any legislation, and if any part of it is in conflict, the relevant legislation will take precedence.
- 2.3. This policy does not form part of a worker's contract of employment or engagement. CST may vary, replace or terminate this policy from time to time.

## 3. Policy

### 3.1. Guiding Principles:

- CST is a caring community, filled with people committed to serving each other and building one another up. We expect all relationships within CST to be built on justice, love and truth, and obedience to Christ.
- CST affirms the right of all workers to feel safe and to learn and work in an environment free from humiliation, intimidation and hurt. There is no place within the CST community for sexual harassment.
- CST recognises positive outcomes, physical health and emotional, psychological and spiritual wellbeing can be adversely affected by sexual harassment.
- CST is committed to the wellbeing, safety and health of all workers, and this commitment informs school policies, programs and actions.
- It is the responsibility of staff and other workers to work together to create a culture of appreciation and acceptance, free from any form of sexual harassment.
- A strong partnership, common understanding and effective communication between staff and other workers are central to the success of this process and the building of this culture.

### 3.2. Workplace sexual harassment:

- 3.2.1. Sexual harassment can be described as any unwanted or unwelcome conduct of a seriously demeaning nature by reason of a person's sex, in circumstances which a reasonable person would have anticipated the possibility the person harassed would be offended, humiliated or intimidated.

3.2.2. Sexual harassment does not include any interaction, flirtation or friendship which is mutual or consensual. Behaviour which is based on mutual attraction, friendship and respect is not likely to constitute sexual harassment if the interaction is consensual and reciprocated.

### 3.2.3. Legal implications

- In addition to the Statement of Faith and Code of Conduct expectations, the following legislation sets expectations and imposes requirements on employers and workers:
  - the Sex Discrimination Act 1984 (Cth) (SD Act); and
  - the Fair Work Act 2009 (Cth) (FW Act); and
  - the Australian Human Rights Commission Act 1986 (Cth) (AHRC Act); and
  - The Work Health and Safety Act 2012 (Tas).
- Employers or people conducting a business or undertaking now have a positive duty under the Sex Discrimination Act to take reasonable and proportionate measures to eliminate, so far as possible, sexual harassment, as well as certain other conduct contrary to that Act, including harassment on the ground of sex.
- The Australian Human Rights Commission (AHRC) has power to conduct inquiries into employers or PCBU's if the AHRC reasonably suspects that the employer or person is not complying with this positive duty. If non-compliance is found, the AHRC may issue a compliance notice to the employer or person and this notice may be enforced by Court order.
- Sexual harassment is also a work health and safety (WHS) risk. Under the Work Health and Safety Act 2012 (TAS), CST and its officers have a duty to prevent sexual harassment, as it is a hazard and risk to a worker's physical and psychological health. Workers also have WHS duties to take reasonable care for their own health and safety and not adversely affect the health and safety of others.
- Employers, as well as workers, can be held liable (vicariously) for the conduct of their workers. Ancillary liability provisions of the legislation also apply, meaning for example, a supervisor may be held liable as an "accessory" to the sex-based harassment if they aided and permitted its continuation.
- victimising conduct (such as threatening or subjecting a person to detriment for taking action such as lodging a complaint) can now form the basis of a civil action for unlawful discrimination (in addition to a criminal complaint) under the Sex Discrimination Act.
- instead of the current six months, a complaint under the Sex Discrimination Act can now be terminated if it is made more than 24 months after the alleged unlawful conduct took place.
- the existing anti-bullying jurisdiction in the Fair Work Act has been extended to also cover sexual harassment, meaning the Fair Work Commission can make an order to stop sexual harassment in the workplace (preventative rather than monetary).
- the Fair Work Act has been amended to clarify sexual harassment can be conduct amounting to a valid reason for dismissal in determining whether a dismissal was harsh, unjust or unreasonable. The definition of 'serious misconduct' in the Fair Work Regulations has also been amended to include sexual harassment.

### 3.2.4 Examples of sexual harassment

- Sexual harassment can take many different forms – it can be obvious or indirect, physical or verbal, repeated or one-off and perpetrated by persons of any gender against persons of any gender.
- Examples of what could constitute sexual harassment at work include:
  - Staring or leering; and
  - Unnecessary familiarity such as deliberately brushing up against a person or unwelcome touching; and
  - Deliberate or unnecessary physical contact such as groping, patting, pinching, fondling, deliberate brushing up against another body or attempts at kissing; and
  - Suggestive or sexist comments or jokes; and
  - Insults or taunts of a sexual nature; and
  - Intrusive questions or statements about a person's private life; and

- Displaying posters, magazines or screensavers of a sexual nature; and
- Sending sexually explicit emails or text messages; and
- Inappropriate advances on social networking sites; and
- Accessing sexually explicit internet sites; and
- Persistent requests for sex or repeated unwanted requests to go out on dates; and
- Requests for, or expectations of, sexual activity under threat or in exchange for favours or promises of preferential treatment; and
- Continued use of jokes containing sexual innuendo; and
- The public display of pornography, including on the internet; and
- Public displays of nudity (or “flashing”); and
- Sexual violence at the most extreme, including sexual assault and forced attempts at sexual intercourse; and
- Behaviour which may also be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

### 3.3. Duty of Care:

3.3.1 All workers must use every endeavour to keep themselves and others safe and well and therefore have a responsibility to report any instances of sexual harassment or suspected sexual harassment within the workplace.

3.3.2 The procedure to be followed to report an instance of sexual harassment or suspected sexual harassment within the workplace can be found in the CST Procedure for Dealing with Instances of Inappropriate Behaviour.

### 3.4 Procedure:

3.4.1 Workplaces will provide professional development and appropriate resourcing to meet the needs of the workers in developing and implementing strategies and practices which anticipate, identify and prevent all forms of sexual harassment.

3.4.2 In developing safe workplace culture, it is important to recognise deterring such behaviour requires a multi-faceted approach, which includes:

- a culture of appreciation and acceptance of individuals, modelling appropriate attitudes between staff and students;
- an ethos that models respect, compassion and cooperation;
- communication outlining firm action and appropriate consequences in cases where bullying and harassment are identified;
- appropriate supervision in schools of all students by staff;
- communication between staff and other workers.

### 3.5 Response:

3.5.1 Where any incident of sexual harassment is observed or reported, it will be responded to:

- in a timely manner. This will confirm our duty of care to protect all workers within our communities and also model what is appropriate and acceptable behaviour within the community;
- with sensitivity and confidentiality.
- When dealing with any such incident, the CST community will:
  - facilitate appropriate communication and mediation between those involved;
  - communicate adequately and appropriately with parents where required;
  - communicate adequately and appropriately as a staff body;
  - have systems in place to identify where a person may be subject to repeated inappropriate behaviour;
  - maintain confidentiality, only divulging information where absolutely necessary;
  - use procedurally fair processes where an investigation is required;
  - ensure that there is adequate and appropriate reporting, data collection and recording procedures in place when investigating incidents.

3.5.2 All incidents of inappropriate or sexually harassing behaviour will be dealt with adequately and appropriately, recognising that the behaviours do often vary widely in severity and seriousness.

3.5.3 The response to all incidents of inappropriate or sexually harassing behaviour will be proportionate with its level of severity and the specific circumstances surrounding the harassing behaviour.

### 3.6 **Breach of the Sexual Harassment Prevention Policy:**

3.6.1 Any worker who is found to have breached this policy will be subject to disciplinary action in accordance with CST disciplinary policy, up to and including termination of employment or engagement.

3.6.2 Any worker who becomes aware of any actual or potential breach or breaches of this policy must report this information to CST as soon as the worker becomes aware of the actual or potential breach. Failing to report an actual or potential breach may result in disciplinary action in accordance with CST disciplinary policy, up to and including termination of employment or engagement.

### 3.7 **Documentation:**

3.7.1 Where any incident of an inappropriate nature is reported, thorough notes of the incident, communication and response will be maintained by the person responsible for dealing with the incident.

3.7.2 All actions identified as part of any resolution or restoration process will be recorded within the notes.

## 4. **References and Additional Related Documents**

- CST Conflict Resolution Policy
- CST Grievance Response Policy
- CST Work Health & Safety Policy

## 5. **Record Keeping**

5.1 This Policy is to be kept for three (3) years until review, unless there is a significant legislative or organisational change requiring earlier review.

5.2 The master copy is kept in <https://www.cst.tas.edu.au/services> under Policy Documents, online in read-only in PDF form. Any printed or downloaded copies are deemed uncontrolled.

## GENERAL DEFINITION OF TERMS:

Where referred to in this document:

**Christian Schools Tasmania (CST)** means an association of Christians who, through their Board of Directors, are legally responsible for Calvin Christian School, Channel Christian School, Emmanuel Christian School and Northern Christian School.

**The School** refers to the CST school to whom the Policy applies.

**The Board** means the Board of Directors of Christian Schools Tasmania.

**Executive** is a forum including the Chief Executive Officer, Principals and the Business Manager.

**Chief Executive Officer (CEO)** is the person appointed to the position of Chief Executive Officer of the Association, or a person acting from time to time in that position.

**Principal** means the person charged with responsibility for the operation of an Association school, or a person acting from time to time in that position.

**Compliance Manager** is the person appointed to the position of Compliance Manager of the Association, or a person acting from time to time in that position.

**Business Manager** is the person appointed to the position of Business Manager of the Association, or a person acting from time to time in that position.

**Manager** means a person appointed to a managerial position within CST.

**Staff** is any person either employed by CST either on a casual, part-time or permanent basis as well as volunteers, contractors and sub-contractors engaged in working at a CST School.

**Parent** is a person who is the legal guardian of a child enrolled at a CST school.

**Child** means any student enrolled at a CST school.