

HUNTER VALLEY  
FOOTBALL

## REGULATION H: 3.21 Sexual Harassment Policy

### **Summary**

This Policy provide information about:

➤ **Regulation H – 3.21 Sexual Harassment Policy**

that the Joint Zone Associations Competitions will operate under.

The Regulations, Procedures and Policies in conjunction with the Constitution and By-Laws of the Zone Association shall, with the approval of NSW Football and duly Registered with FA, apply from the date of approval and shall take precedence over any previous Regulations of the Zone Association.

Issued by the Joint Board of Directors of Macquarie Football, Newcastle Football, and Hunter Valley Football.

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<b>Contents</b>		<b>Page</b>
1	<a href="#"><u>POLICY</u></a>	3
2	<a href="#"><u>DEFINITIONS</u></a>	3
3	<a href="#"><u>PRINCIPLES</u></a>	5
4	<a href="#"><u>SCOPE</u></a>	5
5	<a href="#"><u>RELATIONSHIPS IN THE WORKPLACE</u></a>	6
6	<a href="#"><u>LEGISLATION</u></a>	7
7	<a href="#"><u>WHERE AND HOW SEXUAL HARASSMENT MAY OCCUR</u></a>	8
8	<a href="#"><u>ALCOHOL AND SEXUAL HARASSMENT</u></a>	9
9	<a href="#"><u>BREACH</u></a>	9
10	<a href="#"><u>RESPONSIBILITY</u></a>	9
11	<a href="#"><u>A RANGE OF COMPLAINT PATHWAYS</u></a>	11
12	<a href="#"><u>COMPLAINT PROCEDURES</u></a>	11
13	<a href="#"><u>RESPONDING TO COMPLAINTS OF SEXUAL HARASSMENT</u></a>	13
14	<a href="#"><u>RIGHT OF APPEAL</u></a>	17
15	<a href="#"><u>EXTERNAL ACTION</u></a>	17
16	<a href="#"><u>POLICY REVIEW</u></a>	17
17	<a href="#"><u>DISCLAIMER</u></a>	17
18	<a href="#"><u>REFERENCE AND RESOURCES</u></a>	18
	<a href="#"><u>APPENDIX 1: ADVICE AND SUPPORT</u></a>	19

## POLICY ON SEXUAL HARASSMENT

### 1. POLICY

- 1.1** The Joint Zone Associations are dedicated to providing a sporting and working environment free of sexual harassment, where all individuals are treated with respect and dignity.

The Zone Association will not tolerate sexual harassment behaviour under any circumstances and will take disciplinary action against anyone who breaches this policy.

- 1.2** The purpose of this policy is:

- to ensure all Joint Zone Association members and employees understand the standards of behaviour expected of them and their legal rights and responsibilities in relation to football and workplace sexual harassment
- to ensure all Joint Zone Association Members and employees understand what sexual harassment is, how to prevent it, and how to respond to it in a way that minimises harm and ensures they meet their legal responsibilities.

- 1.3** By having a standalone prevention policy, we call attention to what sexual harassment is, how it manifests in the football and workplace environments, and the role we all play in preventing it.

Sexual harassment is a work health and safety issue.

All Joint Zone Associations Members have a duty of care to ensure, so far as is reasonably practicable, the health and safety of participants and employees.

This includes managing the risk of sexual harassment.

- 1.4** This policy is applicable to all employees, officials (club and Match), volunteers, coaches, managers, players, professional personnel, and members of the Zone Association.

This policy defines what constitutes sexual harassment, sets forth the Joint Zone Association's stance against such behaviour and provides guidelines for reporting incidents.

It is based on best practice approaches to preventing and responding to sexual harassment in the football and workplace environment.

The policy emphasizes a culture of respect, trust, zero tolerance for sexual harassment and support any victims.

- 1.5** This policy is applicable to behaviour occurring both within and outside the course of Zone Association business, Member clubs activities, and events, when the behaviour involves individuals associated with the Zone Association and negatively affects relationships within the football and workplace environment of the Zone Association.

### 2. DEFINITIONS

- 2.1** For the purpose of this policy, sexual harassment is defined as any behaviour:

- that is **unwelcome** (whether or not the person impacted has explicitly identified it as unwelcome or raised a concern about the conduct)
- of a **sexual nature** (a sexual advance, request for sexual favours or other conduct of a sexual nature)

- that a **reasonable person** (aware of all the circumstances) would anticipate could possibly make the person subjected to the conduct feel **offended, humiliated, or intimidated**.<sup>1</sup>

**2.2** Behaviour constituting sexual harassment can take many forms, it may be implicit or explicit, verbal, or non-verbal and it may include promises or threats in return for sexual favours.

It can be physical, verbal or written, including through online and phone communication.

Examples of behaviour that could be sexual harassment in the workplace include:

- unwelcome or inappropriate touching, hugging, cornering, or kissing
- inappropriate staring or leering that makes the other person feel intimidated
- sexually explicit or indecent physical contact
- actual or attempted sexual assault
- being followed or watched or having someone loitering nearby
- sexual gestures, indecent exposure, or inappropriate display of the body
- displaying sexually explicit images or objects around the office
- intrusive or sexually suggestive questions, comments, or jokes
- comments or questions about a person's sexual activities or body
- unwanted or repeated invitations to go out on dates, start a relationship or propositions for sex
- emailing pornography or rude jokes
- sending sexual text messages, including photos, videos, or memes
- communicating content of a sexual nature through social media
- threatening to share or sharing intimate images/video of someone without consent
- ongoing unwelcome contact (e.g. in person, by phone, via social media) following the end of a consensual relationship.

Although the intent may vary, if the behaviour is unwelcome and its effect is to offend, humiliate or intimidate, the behaviour must stop.

It should not be assumed that a person consents to another person's behaviour simply because they have not complained about it.

Power imbalances and concerns about victimisation or reprisal may prevent the person from expressly objecting to the behaviour.

Some forms of sexual harassment are also criminal offences.

Sexual assault (commonly referred to in the community as rape and attempted rape), sexual touching without consent and other sexual acts without consent are serious criminal offences.<sup>2</sup>

<sup>1</sup> Anti-Discrimination Act 1977 (NSW) s.22A, Sex Discrimination Act 1984 (Cth) s.28A.

<sup>2</sup> Crimes Act 1900 (NSW) Part 3 Division 10.

There is no requirement that the unwelcome conduct be repeated; a one-off incident can be sexual harassment.

A broader pattern of behaviour can also constitute sexual harassment.

Sexual harassment may be perpetrated by various people, including an employer, supervisor, co-worker, Board Member, Club Official, coach, manager, volunteer, Match Official or customer.

Some conduct may not meet the definition of sexual harassment but still be unlawful.

For example, conduct may not be sexual harassment, but amount to harassment on the ground of sex, sex discrimination and/or the creation of a hostile workplace.

A single act of conduct may fall into more than one of these categories, for example both sexual harassment and harassment on the ground of sex.

### 3. PRINCIPLES

Guiding principles for this policy.

- 3.1 *Strong and consistent leadership:*** Zone Association Administrations, Boards and Member Club Executives continuously reinforce that sexual harassment is unacceptable, model safe and respectful behaviour, and foster a safe reporting culture.
- 3.2 *Sexual harassment is a work health and safety issue:*** all reasonably practicable steps are taken to eliminate or minimise the health and safety risks of sexual harassment in the football and workplace environment.
- 3.3 *Prevention:*** sexual harassment is prevented by addressing gender inequality and unequal power relations as the key drivers and identifying and managing key risk factors.
- 3.4 *Early intervention:*** early intervention approaches are used, where possible, to address football, workplace environment sexual harassment and prevent escalation.
- 3.5 *Respecting victim-survivors:*** the safety and wellbeing of victim-survivors is prioritised by providing a trauma-informed approach which supports, listens to, and validates the experience of victim-survivors.
- 3.6 *All parties are treated fairly and supported:*** action to address sexual harassment prioritises the rights, needs and wishes of the reporter and should ensure adequate support is provided to the alleged harasser, including education and behavioural change options, while ensuring procedural fairness to all parties.
- 3.7 *Responsive to diverse needs:*** understanding, respecting, and embracing the many aspects of a person's identity in preventing and responding to sexual misconduct.

### 4. SCOPE

This policy concerns prevention of sexual harassment.

This policy applies to all people ('workers') carrying out work in any capacity paid or unpaid for the Zone Associations.

In this policy:

- '**worker**' has the same meaning as in the *Work Health and Safety Act 2011* (NSW) and includes an employee (including the Zone Association Board, A and all leadership and management personnel of the Zone Association), Member Club Executive or

management, Team Officials, Match Officials, contractor or subcontractor, a volunteer, or a prescribed class of person.<sup>3</sup>

- '**workplace**' is a place where work is carried out for a business or undertaking (Zone Association or Member Club) and includes any place a worker (paid or unpaid) goes, or is likely to be, while at work.<sup>4</sup>

This policy applies to circumstances including the following:

- interactions between workers
- interactions between workers and third parties (including spectators, players, officials, or customers) where that interaction occurs in connection with any work-related activity, e.g. sexual harassment of a spectator, player, official (Club and Match), or customer by a worker
- on-site, off-site, work-related social functions and conferences – wherever workers may be for work-related duties, including working from home
- out of work hours interactions where there is a strong connection to the employment relationship
- all aspects of employment, recruitment and selection, conditions and benefits, training and promotion, task allocation, shifts, hours, leave arrangements, workload, equipment, and transport
- in online spaces, including email, Microsoft Teams, Zoom and social media platforms where the conduct is in connection with the employment (e.g. remote work) or involving online communication between workers or between a worker and a third party.

## 5. RELATIONSHIPS IN THE WORKPLACE

Sexual or romantic interaction that is entered into freely and is reciprocated between consenting adults ***is not*** sexual harassment.

This includes sexual interaction, flirtation, attraction, or friendship which is invited, mutual, consensual, or reciprocated action.

This ***does not*** mean that consensual sexual or romantic interactions between workers (Zone Association employees, Board Members, Club Members, Match Officials, Volunteers etc.) are always appropriate.

Workers may face disciplinary action where their actions adversely affect other workers or their football or workplace responsibilities.

The Code of Behaviour requires employees to disclose actual, potential, or reasonably perceived conflicts of interest between an employee's personal interests (including personal relationships) and their official duties.

This may require disclosure of a current or previous relationship between an employee and another worker in some circumstances. (Refer to Regulation H Football Member Protection Policy and H0.3.7 Code of Behaviour Policy.)

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<sup>3</sup> Work Health and Safety Act 2011 (NSW) s 3.

<sup>4</sup> Work Health and Safety Act 2011 (NSW) s 4.

## 6. LEGISLATION

Sexual harassment and harassment on the ground of sex is unlawful and prohibited by the *Anti-Discrimination Act 1977* (NSW) (*Anti-Discrimination Act*) and the *Sex Discrimination Act 1984* (Commonwealth) (*Sex Discrimination Act*).

Both of these Acts apply to NSW government sector employees.

Employers or people conducting a business or undertaking (both paid and unpaid) 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.<sup>5</sup>

As from 12 December 2023, the Australian Human Rights Commission (AHRC) has the power to conduct inquiries into employers or persons conducting a business or undertaking (both paid and unpaid) 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.

An employer (both paid and unpaid) may be 'vicariously liable' (i.e. legally responsible) for sexual harassment committed by employees or agents if the employer fails to take all reasonable steps to prevent the harassment.<sup>6</sup>

Some forms of sexual harassment (e.g. sexual assault, indecent exposure, stalking and obscene communications) may also be criminal offences.

Sexual harassment is also a work health and safety (WHS) risk.

Under the *Work Health and Safety Act 2011* (NSW), the Zone Associations, Member Clubs 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.

Some incidents of sexual harassment may be notifiable incidents under ss.35-38 of the *Work Health and Safety Act 2011*.

A notifiable incident includes a person's death, or serious injury or illness requiring immediate treatment as an in-patient in a hospital.

Sexual harassment is also contrary to the ethical framework for Zone Association employees and Member Clubs outlined in H03.2 Anti-Bullying and Harassment Policy, Regulation H – Football Member Protection Policy and contrary to the Code of Conduct for Zone Associations and Member Club employees (both paid and unpaid).<sup>7</sup>

Reports of sexual harassment during or following the breakdown of a consensual relationship should be handled with care.

Just because two individuals are, or used to be, in a consensual sexual relationship does not preclude the possibility of sexual harassment during or following the end of the relationship.

<sup>5</sup> *Sex Discrimination Act 1984* (Cth) s 47C.

<sup>6</sup> *Anti-Discrimination Act 1977* (NSW) s 53 and *Sex Discrimination Act 1984* (Cth) s 106.

<sup>7</sup> *Government Sector Employment Act 2013* (NSW) Part 2 and 2A (to commence 1 July 2023).

Risk factors include where there has been a relationship breakdown or where the relationship involved employees with unequal power dynamics within an organisation.

## 7. WHERE AND HOW SEXUAL HARASSMENT MAY OCCUR

By law and legislation sexual harassment is prohibited in Zone Associations and Member Club workplaces (office, venue, or facility) and football-related situations or activities.

By definition, the workplace (office, venue, or facility) is not confined to the actual physical location used by workers (both paid and unpaid).

It includes any place where work is carried out and extends to common areas such as entrances, vehicles, reception areas, corridors, kitchens, canteens, Board rooms, changerooms and toilets of the premises.

Sexual harassment can occur beyond the usual workplace (office, venue, or facility) and outside normal working hours.

For example, workplace sexual harassment can occur in settings where there is a connection to employment, including:

- where a worker (paid or unpaid) is working remotely, including if the person's workplace is their home
- in a place where the worker is undertaking work at a different location (e.g. at another Zone Association premises or a Member Club facility)
- at social functions sponsored and paid for by the Zone Association or Member Club
- at social functions in connection with the Member Club/Member Team, but not sponsored or paid by Zone Association
- in vehicles while on the way to/from work functions, Match days, Training, Gala Days, or meetings
- at after-parties to such events (regardless of their location)
- in accommodation (e.g. hotel rooms) associated with or provided by Zone Association or Member Club
- online via use of technology and social media
- any other location in situations where the conduct commenced in the workplace and continued outside the workplace and vice-versa.
- Sexual harassment can occur through electronic means (e.g. emails, text messages, sending links to pornographic websites and through social media), regardless of whether sent during work hours or not.
- Where there is a link to employment (i.e. involving communications between workers), workers are subject to the same rules about sexual harassment in the virtual world as they are in the real world.

In line with Zone Association's Anti-Bullying and Harassment Policy, Risk Management Policy and Social-media Policy, workers (paid or unpaid) are required to use technology and social media responsibly in the workplace and outside the workplace and must treat others with dignity,

courtesy, and respect, and not engage in sexual harassment or condone sexual harassment by others.

## 8. ALCOHOL AND SEXUAL HARASSMENT

Consumption of alcohol at Zone Association or Member Club functions or related events or activities can increase the risk of sexual harassment occurring.

Sexual harassment is unlawful and unacceptable in any setting, regardless of where it occurs, including when individuals have been consuming alcohol.

Individuals should regulate their own behaviour and consumption of alcohol to ensure their behaviour does not adversely impact others.

Individuals should be mindful that in such situations, they continue to be subject to the Code of Behaviour for Zone Associations and Member Clubs behavioural standards. Board members, Zone Association management, club executives, coaches, managers, match officials and other supervisors should be particularly mindful of their conduct in such situations, noting power imbalance may make it harder for individuals to call out unwelcome behaviour.

For further information, please also refer to the Joint Zone Association's Alcohol and Prohibited Drugs policy.

## 9. BREACH

Sexual harassment and other behaviour that contravenes this policy may amount to misconduct under the H0.3.7 Code of Behaviour Policy, H03.2 Anti-Bullying and Harassment Policy, Regulation H - Football Member Protection Policy and may otherwise be unlawful.

- 9.1** Disciplinary action will be taken by the Zone Association against anyone who is found to be in breach of this policy.
- 9.2** Disciplinary action will also be taken by the Zone Association against any person who victimizes or retaliates against a person who has lodge a complaint relating to sexual harassment.
- 9.3** The disciplinary action taken by the Zone Association will depend on the severity of the case and may involve an apology, counselling, suspension, dismissal, or other form of action deemed necessary.

The Zone Association Administrator – Disciplinary or Member Club Executive/Member Information Protection Officer will deal with misconduct in accordance with the requirements of applicable laws and any other relevant FA, NSW Football or Zone Association Regulations or Policies under Member Protection.

## 10. RESPONSIBILITIES

- 10.1** The Zone Association as well as its member clubs are responsible for ensuring that reasonable steps to prevent sexual harassment and ensuring its position is widely known through all levels of the organisation's activities have been followed.
- 10.2** The Zone Association will ensure that appropriate procedures are identified to handle any sexual harassment complaints.

It is further responsible for ensuring that:-

- The Member Information Officer at each level of the Zone Association is identified to provide information and support.

- Such a person should have access to training to mediate/conciliate grievances.
- Complaints are treated in an impartial, sensitive, fair, timely and confidential manner.
- Sexual harassment reporting is encouraged, regardless of the offender.
- Appropriate training may be provided when required to those who manage and implement the policy.
- Widespread awareness and understanding of sexual harassment are provided to all employees and members.
- The policy and procedures are monitored and reviewed regularly.

**10.3** All employees, members, professionals, and other persons associated with the Zone Association are responsible for:

**a. *All Employees, Club Members, Match Officials, and other workers (both paid and unpaid) must:***

- comply with this policy
- demonstrate high levels of personal conduct consistent with this policy and their responsibilities under the ethical framework and Code of Behaviour.
- This means they must treat others with dignity, courtesy and respect and not engage in sexual harassment or condone sexual harassment by others
- seek assistance when unsure about how to implement this policy
- be encouraged to report suspected breaches of the policy in accordance with the reporting mechanisms under the Football Member Protection Policy.

**b. *Supervisors/Managers/Board Members/Club Executives***

In addition to their responsibilities as employees (both paid and unpaid), those with management and leadership responsibilities must also:

- promote a work culture where sexual harassment is unacceptable
- communicate and promote this policy to those they work with
- challenge inappropriate behaviour
- encourage an environment where workers feel safe to report sexual harassment
- prioritise the care and support of those impacted when responding to issues raised with them or observed
- take prompt action to address all reports of sexual harassment (taking into account the wishes of the person subjected to the harassment), treat seriously and confidentially, keep names and details related to sexual harassment complaints confidential unless disclosure is necessary as part of the disciplinary or corrective process.

## 11. A RANGE OF COMPLAINT PATHWAYS

Options available to lodge a sexual harassment complaint include:

- seeking support, advice and making a disclosure
- reporting internally to Member Club or Zone Association management
- reporting to an external authority.

Incidents of sexual harassment can be reported informally, formally, anonymously, and confidentially.

Complaint pathways are outlined in more detail below.

## 12. COMPLAINT PROCEDURES

The Joint Zone Associations and Member clubs strongly encourages individuals who have been sexually harassed or have witnessed sexual harassment to lodge a complaint about the behaviour.

The Joint Zone Associations and Member clubs will take all complaints of sexual harassment seriously.

The response to the complaint will be guided by the person making the complaint.

Making a complaint about sexual harassment does not necessarily automatically trigger a formal investigation, although that may be appropriate in some cases.

Support, advice, and early intervention may prevent further or more serious instances of sexual harassment from occurring.

Any individuals are encouraged to make timely complaints; while being reassured they will not be treated unfairly because of any delay in reporting harassment.

Complaints involving incidents of sexual harassment can be reported informally, formally, anonymously, and confidentially.

**12.1** The most effective complaint procedures offer a range of options for dealing with sexual harassment.

The Zone Association recognizes that natural justice is the minimum standard of fairness to be applied in the investigation and adjudication of a dispute.

**12.2** Sexual harassment complaints may be handled through a variety of mechanisms. (*refer to Regulation H – H09 Responding to Complaints*)

Options available to report sexual harassment include:

- seeking support, advice and making a disclosure
- reporting internally to Member Information Protection Officer, Club Executive, Zone Association Administration
- reporting to an external authority.

The Joint Zone Association management and our Member Clubs recognizes that, as a highly sensitive and complex matter, sexual harassment is best dealt with informally through discussion between the parties with the Member Information Protection Officer or with some assistance from an independent third party, so as to minimise its detrimental and unsettling effects.

An informal resolution is ***not always possible***, and it may be necessary to resort to formal procedures to resolve the complaint.

- 12.3** The Zone Association encourages individuals who experience sexual harassment to inform the alleged harasser that the behaviour is unwelcome, unacceptable, inappropriate, and contrary to the Joint Zone Associations and Member Clubs policy and ask that they stop the behaviour.

Individuals should also keep notes documenting incidents (emails, SMS messages, Facebook posts, etc.) of the behaviour including time, place, and any witnesses.

- 12.4** If it is not possible to confront the alleged harasser, or if this course of action fails to stop the behaviour, then the matter should be brought to the attention of a Member Information Protection Officer, manager, President, or Secretary, or supervisor, etc., for advice.

- 12.5** The role of the Member Information Protection Officer or manager President, or Secretary, or supervisor acting in this capacity as a first point-of-contact is to act in an unbiased/impartial capacity to listen to the complaint, offer support, provide advice on procedures, and refer to specific agencies when appropriate.

***It is not the role of the Member Information Protection Officer to try to resolve the grievance.***

- 12.6** The role of a Member Information Protection Officer is to determine whether a complaint has any substance, inform the person accused of harassment of the nature of the complaint, inform both parties of their rights and responsibilities in proceeding with a grievance.

To act as a mediator/conciliator between the parties involved in the complaint, follow up after a complaint has been resolved to ensure that there is no recurrence and refer serious matters to management (Zone Association Administration, Club Executive) or to the appropriate external agency.

It is the prerogative of the complainant to decide to proceed with or dissolve a complaint.

- 12.7** The Joint Zone Association recognizes the importance of providing a choice of lodging a complaint mechanisms and officers (male and female) to complainants in order that they may feel comfortable to come forward to discuss or inform on an incident.

It also recognizes that in some instances the Member Information Protection Officer, manager or supervisor, President, or Secretary may be too close to the problem to serve without bias.

The Zone Association will ensure access to a network of named Member Information Protection Officer either from within the Zone Association or as identified by Northern NSW Football or NSW Office of Sport.

- 12.8** The complaint may be resolved informally between the complainant and the alleged harasser through discussion, an apology, and a commitment to stop the behaviour.

In such a case the Member Information Protection Officer or manager or supervisor or President, or Secretary assisting in the informal resolution shall establish a follow-up date to ensure the behaviour does not recur; otherwise, no further action is necessary.

- 12.9** In the event that the complaint cannot be resolved informally, the complainant may lay a formal complaint.

In this case, the complainant is required to prepare and sign a formal written complaint to the Member Information Protection Officer who will, in turn, ensure that the alleged harasser is provided with a copy of the complaint.

- 12.10** The Zone Association management responsible for this policy is responsible for ensuring that the complaint is investigated and mediated or conciliated professionally and confidentially, in an unbiased and prompt manner.

The Zone Association shall fulfil this responsibility by either:

- establishing a comparable grievance mechanism within its own structure to handle the complaint.
- utilising the Member Information Protection Officer pool through Northern NSW Football or NSW Office of Sport.

- 12.11** The review panel will comprise three members, at least one male and one female.

Decisions of findings and recommendations of possible disciplinary action are the responsibility of the review panel.

- 12.12** The Zone Association shall ensure that all steps in the complaints procedure are handled promptly and that the period given to investigation, hearing and release of the decision does not exceed a period of ninety (90) business days.

### **13. RESPONDING TO COMPLAINTS OF SEXUAL HARASSMENT**

- 13.1** The Joint Zone Associations and our Member Clubs are committed to taking a trauma-informed and person-centred approach when responding to reports of sexual harassment.

This includes:

- ensuring the safety, privacy and wellbeing of the person impacted are prioritised
- listening to the person impacted in a compassionate, non-judgmental, and sensitive manner
- ensuring all processes are designed to minimise harm
- ensuring reports are handled fairly, impartiality and reasonably in accordance with procedural fairness principles
- ensuring all participants in the process have clear information about the process and how procedural fairness will be provided
- ensuring confidentiality is understood and maintained
- ensuring responses are provided in a timely manner.

The Joint Zone Associations and our Member Clubs will always seek input from the person impacted on how they would like the matter resolved and take this into account in determining how to proceed with the complaint.

Where possible, the Joint Zone Associations and our Member Clubs will explain its reasons if it does not handle or resolve the complaint in the way requested by the person impacted.

In some cases, the person impacted may not want any action taken and is reporting the behaviour so that the organisation knows that it has occurred.

Joint Zone Associations and our Member Clubs has an obligation to deal with any wrongdoing it becomes aware of.

In some cases, action may be warranted, even where the person impacted states that they do not want any further action to be taken.

This may be the case in situations where the behaviour constitutes a work health and safety risk or a criminal offence or requires disciplinary action to be taken or where there have been repeated complaints regarding an individual's behaviour.

Joint Zone Associations and our Member Clubs is also obligated to take measures to eliminate acts of victimisation in relation to sexual harassment complaints (*see Regulation H 7.1 & 7.2*).

### **13.2 Informal Resolution**

Informal resolution or management is where the issue is resolved internally, without a formal response or investigation.

Rather than making a determination as to whether the conduct occurred, the aim is to stop escalation or future incidents by educating the alleged harasser about acceptable standards of behaviour and mitigating the risk of the conduct repeating in the future.

Responding to issues through informal resolution may include:

- Zone Association Management, Club President, Club Secretary, a manager, or supervisor speaking to the alleged harasser about their behaviour
- facilitating/mediating an open and respectful conversation between the parties (mediation will only occur with the full and informed consent of both the person reporting the behaviour and the alleged harasser)
- putting system changes in place to prevent further issues, e.g. moving, or changing the training sessions of the alleged harasser, directing the alleged harasser to seek counselling
- refresher training for all Zone Association employees or Club personnel on the requirements of this policy.

### **13.3 Work Health and Safety Investigation**

Where a worker has chosen to report the sexual harassment as a work health and safety hazard, or the incident has been identified as a work health and safety hazard, Joint Zone Association will conduct an investigation in accordance with **Risk Management Policy**.

### **13.4 Formal Investigation**

Where a formal investigation is appropriate or is the preference of the person impacted, the Zone Association or Member Club will appoint an internal or external investigator to investigate the allegation/s and make factual findings, and report to Zone Association or Member Club, which will then decide an outcome in accordance with applicable legislation.

Investigations will be conducted in a confidential, impartial, timely and fair manner. Investigations will adopt a trauma-informed approach, with awareness of power imbalances that may exist between the parties.

The parties involved will be notified of their right to have a support person or union representative to assist them throughout the process.

The Zone Association or Member Club will begin the investigation as soon as possible and aim to finalise a formal investigation within 90 business days. The parties will be kept regularly informed during the period of the investigation.

Investigations will be undertaken in line with relevant the Joint Zone Associations policies, procedures, and industrial instruments.

In some circumstances, an employee who is the subject of a complaint may be suspended from duty whilst an investigation is ongoing and/or a decision is made in relation to the complaint.<sup>8</sup>

### **13.5 Procedural Fairness**

The Zone Association or Member Club acknowledges that for workers (paid or unpaid) who are the subject of allegations of wrongdoing, the experience may be stressful.

The Zone Association or Member Club will protect their rights by:

- assuring them that any report will be dealt with impartially, fairly, and reasonably in accordance with the principles of procedural fairness
- confirming that the report is an allegation only if and until information or evidence obtained through an investigation substantiates the allegation
- providing them with information about their rights and the progress and outcome of any investigation
- referring them to the Zone Association counselling service for support
- allowing both parties the opportunity to respond to any allegations made against them before any report is finalised and a final decision is made.

Any reports made that are found to be intentionally falsified or vexatious in nature will be actioned accordingly – noting that this conduct may itself amount to misconduct or breach of Code of Behaviour Policy.

### **13.6 Confidentiality, Privacy and Transparency**

The Zone Association or Member Club will treat reports of sexual harassment confidentially, including:

- the identity of the person impacted, alleged harasser/s, and any other participants involved in the investigation process
- information provided or collected during the investigation of an allegation.

It is expected that all individuals involved in an investigation will keep details of the allegation confidential until the investigation has concluded.

Failure to do so may result in further consequences or disciplinary action.

Ensuring confidentiality should not prevent the people involved from seeking support, e.g. bringing a support person to meetings.

Some information reported may need to be disclosed to involved parties in order to properly investigate the matter.

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<sup>8</sup> Government Sector Act 2013 (NSW) s70.

Where there is reason to believe that a person is a risk to themselves or others, and in the case of reportable conduct (e.g. child protection, serious indictable offence), the Zone Association or Member Club may need to notify appropriate authorities.

Once the matter is finalised, Zone Association or Member Club will not restrict the impacted person's right to speak in their personal capacity.

### **13.7 Possible Outcomes**

#### **(i) Consequences for the responsible person(s)**

Where allegations of sexual harassment are substantiated, action that is consistent and proportionate will be taken to hold the responsible person to account for their behaviour.

The possible outcomes will also depend on whether an informal resolution or a formal complaint was preferred by the person impacted.

Possible outcomes include:

- disciplinary action, e.g. warning, suspension, expulsion, demotion, or dismissal
- a change to working hours or locations
- an apology
- agreement on protocols to manage the relationship moving forward
- refresher sexual harassment prevention training
- coaching or performance counselling
- behavioural change counselling.

Where a serious allegation of sexual harassment is substantiated, it is likely this will be found to be misconduct and disciplinary action will follow.

#### **(ii) Restorative actions for the impacted person(s)**

The Zone Association or Member Club will work with the impacted person(s) to understand and implement, where possible, any actions that may help them to recover from the incident, rebuild relationships at work or at club level and continue a successful career or volunteer work with the Zone Association or Member Club.

### **13.8 Criminal Matters**

Where a complaint of sexual harassment is made that may involve behaviour constituting a criminal offence (e.g. sexual assault, indecent exposure, stalking, obscene communications), the Police should be immediately contacted.

In general, the Zone Association or Member Club will not lodge a complaint relating to sexual offences to the police without the consent of the person making the complaint, in line with a person-centred and trauma-informed approach.

However, when there is an imminent risk to safety, there will be circumstances when police may need to be called without consent.

### **13.9 Protection Against Victimisation**

Victimising another person for making an allegation or complaint of sexual harassment is unlawful under the *Anti-Discrimination Act* and the *Sex Discrimination Act*, unless it involves lawful action in relation to an allegation that is proven to be false and not made in good faith.<sup>9</sup>

Victimisation of people who have, or might, complain of sexual harassment, as well as bystanders or people perceived to have helped a person make a complaint of sexual harassment, is also unlawful. (*refer to Regulation H 7.1 & 7.2*)

## **14. RIGHT TO APPEAL**

Both parties to a complaint have the right to appeal the decision and recommendation of a panel, if a matter of procedure, bias or fairness is called into question.

An appeals panel, made up of members other than those who formed the original review panel, shall handle formal appeals.

## **15. EXTERNAL ACTION**

Both complainant and alleged harasser may pursue advice or action from an external authority at any stage of the complaint procedure.

A formal report about sexual harassment can be made to the following agencies:

- Anti-Discrimination NSW
- Australian Human Rights Commission
- Safe Work NSW
- NSW Police Force
- Fair Work Ombudsman
- NSW Independent Commission Against Corruption if corrupt conduct is suspected or may be involved.

The person impacted can make an external report regardless of whether they have raised a complaint internally.

## **16. POLICY REVIEW**

The Zone Association will ensure that a review of the policy is conducted periodically.

## **17. DISCLAIMER**

This Policy does not offer, constitute, or replace, legal advice, including in relation to the prevention or management of sexual harassment in the workplace.

While intended to be current and reflect best practice at the time of publication, it is not a comprehensive guide to applicable law, and may be or become incomplete, inaccurate, or out of date.

The Zone Association accepts no responsibility or liability in relation to this Policy.

<sup>9</sup> *Anti-Discrimination Act 1977* (NSW) s 50 and *Sex Discrimination Act 1984* (Cth) ss 47A, 94.

## 18. REFERENCES AND RESOURCES

Fair Work Commission: [Workplace sexual harassment](#) (Free online course)

Fair Work Australia: [The sexual harassment bench books](#) (For people who need to prepare or respond to an application involving sexual harassment)

NSW Anti-Discrimination Act 1977: [The Act](#)

NSW Public Service Commission: [Model Policy for the prevention of sexual harassment in the workplace](#)

NSW Public Service Commission: [Workplace sexual harassment fact sheet](#)

SafeWork NSW: [Sexual Harassment Resources](#)

SafeWork Australia: [Preventing Workplace sexual harassment – guidance for small business](#)

**APPENDIX 1:**
**ADVICE AND SUPPORT**

Service Provider	Contact Details
<b>Australian Human Rights Commission</b>	<a href="http://www.humanrights.gov.au">www.humanrights.gov.au</a> Info Line: 1300 656 419 (local call) TTY: 1800 620 241 (toll free) Fax: (02) 9284 9611 Email: <a href="mailto:infoservice@humanrights.gov.au">infoservice@humanrights.gov.au</a>
<b>Anti-Discrimination NSW</b>	<a href="https://www.antidiscrimination.justice.nsw.gov.au/">https://www.antidiscrimination.justice.nsw.gov.au/</a> Phone: (02) 9268 5544 Free call: 1800 670 812 Email: <a href="mailto:complaintsadb@justice.nsw.gov.au">complaintsadb@justice.nsw.gov.au</a>
<b>Community Legal Centres Australia</b>	<a href="http://www.naclc.org.au/directory">www.naclc.org.au/directory</a> Phone: (02) 9160 9500
<b>NSW Police Force</b>	Phone: 000 (for emergencies) 13 14 44 (Police Assistance Line – for non-urgent police assistance)
<b>Fair Work Commission</b>	<a href="https://www.fwc.gov.au/about-us/contact-us">https://www.fwc.gov.au/about-us/contact-us</a> Phone: 1300 799 675
<b>SafeWork NSW</b>	<a href="https://www.safework.nsw.gov.au/contact-us">https://www.safework.nsw.gov.au/contact-us</a> Phone: 13 10 50
<b>NSW Sexual Violence Helpline (formerly NSW Rape Crisis)</b>	<a href="https://dvnsdsm.org.au/dvsm_directory/nsw-sexual-violence-helpline/">https://dvnsdsm.org.au/dvsm_directory/nsw-sexual-violence-helpline/</a> Phone: (02) 9621 0800 (provides support for people escaping/experiencing domestic and family violence and homelessness)
<b>Lifeline Australia</b>	<a href="https://www.lifeline.org.au/">https://www.lifeline.org.au/</a> Phone: 13 11 14 (24-hour crisis support)
<b>1800 RESPECT</b>	<a href="https://www.1800respect.org.au/">https://www.1800respect.org.au/</a> Phone: 1800 737 732 (24-hour support for those experiencing or at risk of experiencing domestic, family, or sexual violence)
<b>Rainbow Sexual, Domestic and Family Violence Helpline</b>	<a href="https://fullstop.org.au/contact-us">https://fullstop.org.au/contact-us</a> Phone: 1800 497 212 (24-hour support for anyone from the LGBTIQ+ community whose life has been affected by sexual domestic and/or family violence)

**Service Provider****Contact Details****QLife**

<https://qlife.org.au/>

Phone: 1800 184 527 (3pm – midnight – provides anonymous and free LGBTIQ+ peer support and referral for people in Australia wanting to talk about sexuality, identity, gender, bodies, feelings, or relationships)

**Law Access NSW**

<https://www.lawaccess.nsw.gov.au/>

Phone: 1300 888 529 (9am to 5pm, Monday to Friday (excluding public holidays) a free government telephone service that provides legal information, referrals and in some cases, advice for people who have a legal problem in NSW)

**eSafety Commissioner**

<https://www.esafety.gov.au/report>

**NSW Women's Legal Service**

<https://www.wlsnsw.org.au/>

Phone: (02) 8745 6988  
1800 801 501 (rural) (9:30am – 12:30pm Monday, 1:30pm – 4:30pm Tuesday, 9:30am – 12:30pm Thursday) Free confidential legal information, advice, and referrals for women in NSW with a focus on family law, childcare and protection, Victims Support, and sexual assault.

**Wirringa Baiya Aboriginal Women's Legal Centre**

<https://www.wirringabaiya.org.au/>

Phone: 1800 686 587 (9am – 5pm) a NSW state-wide community legal centre for Aboriginal and Torres Strait Islander women, children and youth.

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