

# Sexual Harassment and Victimisation Policy

## At a Glance

Five Good Friends will not tolerate sexual harassment or victimisation. We are committed to taking all reasonable steps to prevent employees, volunteers, independent contractors and subcontractors (collectively, workers) from committing acts of sexual harassment or victimisation in connection with his or her employment, contract or duties. In this regard, adoption and implementation of this policy is an important preventative step.

## Scope

Acts of sexual harassment or victimisation occurring after work or away from the workplace may still have a relevant connection with a worker's employment or duties. This policy applies to any conduct occurring after office hours or away from the workplace, including at social activities, where there is a possible connection with the organisation.

This policy is separate from employment contracts. Our compliance with this policy does not affect contractual obligations owed by the Company to its workers. Workers who do not comply with it will face disciplinary action, which may include dismissal.

## Objective

This policy explains what sexual harassment or victimisation is, what you can do to prevent it from occurring, and what you can do to address sexual harassment or victimisation that has occurred.

## Definition

- Sexual harassment - unwelcome conduct of a sexual nature. However, unwelcome conduct of a sexual nature will only be sexual harassment if it occurs in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person being harassed would be offended, humiliated or intimidated by the conduct. The actual motives or intentions of the person engaging in the conduct are irrelevant. For example, a reasonable person might anticipate that a person who is in a settled relationship is highly likely to be offended by an unwelcome sexual advance made by a coworker.

The relationship between the person harassed and the person who engaged in the unwelcome conduct of a sexual nature is also relevant to the question of whether the conduct is sexual harassment. For example, a reasonable person might anticipate that unwelcome conduct of a sexual nature engaged in by a senior manager of the organisation in relation to a worker under his or her supervision is highly likely to humiliate or intimidate that worker.

Other relevant circumstances might include the age, marital status or religious belief of the person harassed. Conduct of a sexual nature in relation to another person includes:

- a sexual advance or a request for sexual favours to that person
- conveying a message with content of a sexual nature to that person, or in the presence of that person (whether by SMS, email, in person or otherwise)
- staring, leering or unwelcome touching of that person, such as kissing, touching in a sexual manner, patting, pinching or unnecessary familiarity, such as deliberately brushing against the person
- issuing gender-based insults or obscene gestures to that person, wolf-whistling or taunting that person
- directing suggestive comments, innuendo or intrusive questions about that person's private life or body
- displaying obscene or pornographic material to, or near, that person, and
- directing sexual banter, offensive jokes or crude conversation to or near that person.

Conduct between parties that is the subject of mutual acceptance or consent is not unwelcome and is therefore not sexual harassment.

- Victimisation - if a person subjects another person to detriment by making, or proposing to make, a complaint or report of sexual harassment or victimisation against them that is false or not in good faith, then they are victimising that person. A person will subject another person to a detriment if they engage in conduct which makes that other person feel uncomfortable, isolated, unwelcome, intimidated or insecure.

## Policy Statement

- Workers will have access to the policy during their association with the Five Good Friends and receive regular refresher training about its content.
- We will periodically review the policy to ensure it is up to date. If necessary, we will vary the policy and make workers aware of the changes.
- It is unlawful under anti-discrimination legislation for:
  - a worker to sexually harass another worker or a person who is seeking to become a worker of Five Good Friends, or

- any person to sexually harass another person in the course of providing or offering to provide goods or services to that other person on behalf of Five Good Friends.
- Unless Five Good Friends has taken all reasonable steps to prevent a worker from committing acts of sexual harassment or victimisation in connection with his or her employment or duties Five Good Friends is vicariously liable for that conduct.
- If a worker is the victim of sexual harassment or victimisation, he or she might wish to let the person engaging in the conduct know that they consider their behaviour to be unacceptable and that if it continues, the worker will report the conduct under this policy.
- If a worker is not a victim but he or she has information to suggest that a person is experiencing sexual harassment or victimisation in connection with the organisation the worker must not spread gossip or rumours about what he or she knows. The worker must only report this information to a manager or the contact officer.
- If a worker makes a report of sexual harassment or victimisation without a genuine belief in the truth of the matters he or she is reporting, they may be subject to disciplinary action.

### Contact Officers

- If a worker is a victim of sexual harassment or victimisation, he or she is encouraged to report this to a manager.
- If a worker is not a victim but has information to suggest that a person is experiencing sexual harassment or victimisation in connection with Five Good Friends, he or she is also encouraged to report this to a manager.
- If a worker is uncomfortable raising the matter with a manager, you can raise the matter with a designated contact officer identified below:
  - Chief Executive Officer
  - Chief Operations Officer, or
  - Head of Care and Member Outcomes.
- Managers and contact officers will treat all complaints and reports of sexual harassment or victimisation seriously. If a worker is a victim, the contact officer is able to discuss with the worker options to resolve the matter effectively.
- If a worker speaks to a manager or a contact officer about a sexual harassment or victimisation matter, he or she can indicate that their communications be treated as confidential. The manager or contact officer will respect the worker's confidence so long as it is consistent with the Five Good Friends commitment (and legal obligation) to taking reasonable and practical steps to prevent sexual harassment or victimisation occurring.

- The worker can also raise the matter with a State or Commonwealth agency that has the power to resolve sexual harassment or victimisation matters, such as the Australian Human Rights Commission or the Fair Work Ombudsman.
- If the matter is a criminal matter, the worker may also raise it with the police.

### Handling Reports of Sexual Harassment and Victimisation

- If a worker has made a report as a victim of sexual harassment or victimisation to a manager or contact officer, he or she will have the option of making a formal complaint. This means that the worker is formally asking Five Good Friends to take some action in relation to the conduct.
- If Five Good Friends receive a report from a person who is not a victim, we may approach the person who was the victim of the alleged conduct and ask if they want to make a formal complaint.
- A formal complaint is made by making a written statement outlining what the alleged victim believes occurred, stating names, dates and witnesses.
- The parties to the complaint resolution process will be the alleged victim, the alleged harasser and Five Good Friends.
- If a worker is a victim of sexual harassment or victimisation, he or she does not have to make a formal complaint. However, we may still act on the matters raised in any report if consistent with our commitment (and legal obligation) to taking reasonable and practical steps to prevent sexual harassment or victimisation occurring. The Company will consult with the victim before taking any action.
- Courses of action may include the following:
  - Investigation
    - Five Good Friends may arrange for a formal investigation of the matters raised in the report for the purposes of ascertaining whether any disciplinary action should be taken against the alleged harasser  
in this case we will appoint a suitably qualified, independent person to investigate whether it is more likely than not that the facts alleged in the report or complaint are true.
    - Prior to making any finding about alleged facts, the investigator will give the alleged harasser a fair and reasonable opportunity to respond to the matters alleged.
    - As far as reasonably practicable, we will ensure any investigation is undertaken promptly and confidentially, and that the parties are kept up to date about its progress.
    - All documentation relating to the report or complaint will be kept secure and access confined to those persons who need access.

- Depending on the extent to which the complaint is substantiated, Five Good Friends may warn or dismiss the alleged harasser or implement some other arrangement.
- Informal Counselling
  - Five Good Friends may informally counsel the alleged harasser and remind them of the requirement to comply with this policy. No formal findings would be made about the matters that are the subject of the report or complaint.
- Conciliation
  - The parties may consent to the complaint being submitted to a process of conciliation. Under this process, a suitably qualified independent person will convene a meeting of the parties to explore options for resolving the matters that are the subject of the complaint by agreement.
  - This may occur even when an investigation is in progress.
  - An example of an outcome of conciliation is an agreement between the parties that provides as follows:
    - the investigation into the complaint will cease
    - the Company will issue a confidential written warning to the alleged harasser that any future breach of the policy will place his or her employment in jeopardy
    - the alleged harasser will be required to submit to refresher training about the policy
    - the alleged harasser will apologise to the victim for his or her conduct, and
    - all parties will agree to keep the agreement confidential and the victim will agree not to pursue the complaint any further (provided that the alleged harasser complies with this policy).

## References and Related Documents

### Five Good Friends

- Grievance Policy
- Incident Management Policy
- Incident Management Workflow

### External

- Australian Human Rights Commission
- Fair Work Ombudsman
- Anti-discrimination Commission - Queensland