

The Paraplegic and Quadriplegic Association of SA Inc.



Sexual Harassment Policy & Procedures

Statement

The Paraplegic and Quadriplegic Association of South Australia Inc. (The Association) is committed to ensuring that all current and prospective employees and clients are not subjected to any form of sexual harassment in the workplace. Employees and Clients of the Association have the right to be treated with respect and dignity, to this end the Association is dedicated to providing an environment free from Sexual Harassment.

Sexual harassment by or towards any employee or client in any work related context will not be tolerated under any circumstances.

Approved by:

Date: November 2011

The Paraplegic and Quadriplegic Association of SA Inc. is incorporated under the *Association Incorporation Act 1985 (SA)* and conduct its business through operating Divisions, namely **PARAQUAD SA and HOMECARE PLUS.**

Scope

Compliance with this policy is a condition of appointment for all personnel and clients of The Paraplegic and Quadriplegic Association of SA.

Definition

Client – anyone from within or outside of the Association who requires assistance.

Sexual harassment - is unwelcome sexual behaviour or sexual innuendo that has the effect of offending, intimidating or humiliating a person in circumstances, which a reasonable person having regard to all the circumstances would have anticipated that the person harassed would be offended, humiliated or intimidated.

Sexual harassment may be explicit or implicit. It may be a single incident or occur over a period of time. In defining and identifying sexual harassment it is the effect of the behaviour that is relevant not the intent. It is the impact of the behaviour on the receiver that determines whether sexual harassment has occurred.

Examples of behaviours that may constitute sexual harassment include;

- ◆ sexual jokes, lewd suggestions, whistling, foul language, leering, obscene gestures;
- ◆ belittling comments on a person's anatomy or based on sex-role stereotypes;
- ◆ persistent demands for participation in social activities or repeated requests for dates;
- ◆ asking about a person's private or sex life, explicit sexual suggestions in return for 'reward';
- ◆ unwanted physical contact of a sexual nature including touching, brushing, kissing;
- ◆ display of pornographic and/or sexually suggestive pictures, screen savers, jokes etc and/or sexual objects;
- ◆ sexually offensive written, telephone or electronic communications;
- ◆ indecent exposure; and
- ◆ sexual assault and rape.*

*** Sexual assault and rape are criminal offences and the person assaulted will be advised to report the offence to the police.**

Sexual harassment does not refer to behaviour that is mutually acceptable to the parties involved. Friendships (whether sexual or otherwise) are a private concern.

Must – indicates a mandatory action required by law, industrial instrument, or PARQUAD SA / HOMECARE PLUS policy or procedure.

Personnel – Are either employed by The Association, or are engaged as a contractor or volunteer or in an unpaid position, such as Board Member or visitor.

Should – indicates a recommended action that should be followed unless there are sound reasons for taking a different course of action.

Responsibilities

The Association has a legal responsibility to take all reasonable steps to prevent sexual harassment from occurring in connection with the workplace therefore will:

- Provide training workshops or information sessions from time to time for all employees within the organisation relating to sexual harassment;
- ◆ Provide training for Managers/Supervisors and other employees involved in the complaint resolution process and establish complaint resolution procedures to be used when dealing with sexual harassment complaints;
- ◆ Distribute and regularly promote this Policy statement to all existing and new employees;
- ◆ Model appropriate behaviour themselves and monitor the working environment to ensure that the appropriate standards of conduct are observed at all times;
- ◆ Treat all complaints seriously, take immediate action to investigate and resolve any complaint quickly and fairly with complete confidentiality;

- ◆ Ensure that employees who make or support a complaint of sexual harassment are not subsequently subjected to victimisation;
- ◆ Ensure that any employee found guilty of making mischievous or vexatious complaints relating to sexual harassment is disciplined accordingly as per the Association's Discipline & Termination of Employment Policy;
- ◆ Take all reasonable steps to ensure there is no recurrence of the offence.
- ◆ Offer counselling through the Associations Employee Assistance Program.

Personnel and Clients are responsible for:

- Complying with the Sexual Harassment Policy
- Ensuring that they do not perpetrate sexual harassment in the workplace;
- Offering appropriate assistance or support to any person being harassed; and
- Keeping any complaint confidential to avoid idle gossip and to prevent potential defamatory proceedings being taken.

Policy

The Association regards sexual harassment as a serious breach of the Associations Equal Opportunity Policy. Sexual Harassment in the workplace is unlawful and will not be tolerated. Appropriate action will be taken against any employee who after an investigation are proved to have sexually harassed an employee or client.

In establishing appropriate standards of behaviour the Association recognises:

- ◆ social or cultural backgrounds may lead people to perceive the same conduct differently;
- ◆ some people may accept, as reasonable, a behaviour that other people find offensive ;
- ◆ sexual harassment can arise where different values and beliefs are not respected;
- ◆ both men and women may be sexually harassed by a person or persons of the same or opposite gender;
- ◆ appropriate behaviour is behaviour which respects the rights and sensitivities of all people;
- ◆ all individuals have a responsibility to contribute towards an environment of trust and respect which forms the basis of appropriate professional relationships.

No employee/client will be required to make a complaint of sexual harassment if her or she chooses not to do so.

Important Note: - If any employee fails to abide by the Association's Code of Ethical Behaviour and condones or encourages any form of Sexual Harassment, or sets a precedent that may lead to another employee suffering Sexual Harassment, that employee will be subject to the disciplinary process in accordance with the Association's Policy on Discipline and Termination of Employment and may have their employment terminated as a result.

Procedure

If any employee feels that they have been Sexually Harassed, they may make a complaint by following either the attached Sexual Harassment Procedure or other appropriate company procedure, according to their preference.

Management will ensure that all complaints of Sexual Harassment will be investigated quickly and fairly and treated with complete confidentiality. Any employee or Manager/Supervisor found guilty of perpetrating or condoning sexual harassment will be disciplined accordingly, or in serious cases, their employment will be terminated.

Sexual Harassment Complaint Handling

Informal Intervention

1. If any employee/client believes or perceives that they are or have been sexually harassed, they should approach the harasser, if they feel comfortable to do so, and ask them to stop the offending behaviour.
2. If the employee/client with the complaint (the complainant) is either not satisfied with the outcome of their discussions with the harasser, or feels uncomfortable about approaching the harasser on their own, the employee may seek the assistance of their Manager/ or Supervisor and request that they intervene on their behalf.

Formal Intervention

1. If the matter is not resolved informally, the complainant may wish to make a formal written complaint of harassment to Management. The complainant may elect to make such a complaint as an initial step without approaching the harasser.
2. The Manager/Supervisor must explain the procedures for an investigation to the complainant, and allow them to choose whether or not to proceed.
3. The Human Resource Department must be notified of the complaint. If the Manager/Supervisor feels that they need assistance with the investigation they ask the Human Resource Department to assist.
3. All complaints will be investigated promptly, fairly and ensure complete confidentiality by the Manager/Supervisor. The investigation will involve the interviewing of any employee/client about whom a complaint has been lodged who must be provided with an opportunity to respond to the allegations made against them. Any other person(s) who may have been involved or who may have witnessed the incident(s) should be interviewed as part of the investigation.
4. During any meetings or discussions, every person who is interviewed as part of the investigation will have the right to be represented or accompanied by a person of their choosing, such as a union representative, family member or friend (for reasons of confidentiality, this may not include a client or colleague of the Association.)
5. If the investigation finds that sexual harassment has occurred then the Human Resource Department must be contacted to establish if it is an act of Gross and Wilful misconduct that could result in termination of employment.
6. Following the investigation, the complainant who has made the complaint will be informed by the Manager/Supervisor in writing and person of what action (if any) is proposed to be taken by the Association in the first instance. If they are not satisfied with the way their complaint has been handled by the Association, they have the right to refer the matter to the Equal Opportunity Commission.
7. All personnel involved in an investigation into allegations of Sexual Harassment will be offered counselling through the Associations Employee Assistance Program.
8. All documentation in relation to the complaint, investigation and outcomes must be forwarded immediately upon completion of the investigation to the Human Resource Department to be filed securely in the Complaints Register Folder.

RELATED LEGISLATION

- ◆ Disability Service Act 1963
- ◆ Disability Service Standards
- ◆ Equal Opportunity Act (SA) 1984
- ◆ Human Right Act 2004
- ◆ Sex Discrimination Act 1984
- ◆ Workplace Gender Equality Act 2012
- ◆ Whistleblowers Protection Act (SA) 1993

SUPPORTING PQA DOCUMENTATION

- ◆ Discipline & Termination of Employment Policy and Procedures
- ◆ Grievance & Complaints Management Policy and Procedures
- ◆ Code of Ethical Behaviour
- ◆ Managing Diversity in the Workplace
- ◆ The Paraplegic and Quadriplegic Association of SA Inc Value Statement
- ◆ Occupational Health and Safety Management System
- ◆ Employee Assistance Program Policy

BREACHES OF THIS POLICY

Ignorance of these procedures will not generally be accepted as an excuse for non-compliance. Only in extreme circumstances and where such ignorance can be demonstrated to have occurred through no fault of the individual concerned will PQA accept such an argument.

DISTRIBUTION AND REVIEW

PARAQUAD SA/HOMECARE PLUS will ensure all persons engaged to provide services either paid or unpaid will be aware of this policy and will have easy access to it in an appropriate format. All policies are to be reviewed on a bi-annual basis or when legislation or Government Policy determines.