

# POLICY FOR ANTI-SEXUAL HARASSMENT - TEMPORARY WORKERS



## Purpose

Hays is committed to ensuring the provision of a safe and respectable working environment for all of its workers, free from sexual harassment, harassment on the ground of sex, conduct that subjects a person to a hostile workplace environment on the ground of sex, and all other types of unacceptable and/or unlawful behaviours.

The purpose of this policy is to outline Hays' expected standards of workplace conduct that apply to all our workers and to clearly outline what behaviours can constitute workplace sexual harassment, harassment on the ground of sex and conduct that subjects a person to a hostile workplace environment on the ground of sex. A worker is an individual who performs work for Hays in any capacity, including as an employee, a contractor, a subcontractor, an outworker, an apprentice, a trainee, a student gaining work experience, or a volunteer.

This conduct can have underlying drivers, such as gender inequality. The policy also aims to increase awareness about the incidence of sexual harassment, and to reduce common barriers to reporting sexual harassment.

All workers have the right to be treated equitably and have a responsibility to respect the rights of their colleagues. Hays will not tolerate any unlawful behaviour. Any breaches of this policy will be treated seriously and where appropriate will result in disciplinary action up to and including dismissal.

## Scope

This policy is applicable to Hays Temporary Workers across Australia and New Zealand (ANZ) and to Hays Consultants (who place temporary workers).

## References

This policy should be read in conjunction with the following policies and procedures:

HP-004	Health & Safety – Australia & New Zealand
HP-031	Injury Management & Return to Work – Australia & New Zealand
HP-091	Work Functions Code of Conduct

## Unacceptable workplace conduct

Sexual harassment, harassment on the ground of sex, conduct that subjects a person to a hostile workplace environment on the ground of sex, sex discrimination and victimisation are unacceptable to Hays and are also unlawful under the following legislation:

### Australian Commonwealth Legislation

- Fair Work Act 2009
- Work Health and Safety Act 2011
- Sex Discrimination Act 1984
- Workplace Gender Equality Act 2012

### New Zealand Legislation

- Health and Safety at Work Act 2015
- Human Rights Act 1993
- Employment Relations Act 2000
- Harassment Act 1997

In Australia, state and territory laws also exist. Please see 'Appendix A' to view the relevant laws that apply in your state or territory.

Workers found to have engaged in such unacceptable conduct may be subject to counselling, warning or disciplinary action including potential termination.

Timely verbal or written reporting of incidents of such unlawful behaviour is very important. Temporary workers who experience or witness unacceptable and/or unlawful behaviours including those contained in this policy should take appropriate action to report the behaviour in a timely manner to their Hays Consultant. All reports of unlawful behaviour will be treated seriously and empathetically by Hays.

## **Sexual harassment, harassment on the ground of sex & conduct that subjects a person to a hostile workplace environment on the ground of sex**

Under the *Sex Discrimination Act 1984* (Cth), *Fair Work Act 2009* (Cth) and state and territory anti-discrimination laws in ANZ, sexual harassment is against the law in a number of areas of public life, including in the workplace.

Sexual harassment occurs if:

- A person makes an unwelcome sexual advance or an unwelcome request for sexual favours, to the person harassed
- A person engages in other unwelcome conduct of a sexual nature in relation to the person harassed
- In circumstances where a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated

Harassment on the ground of sex occurs if:

- Because of a person's sex
- Because of characteristics generally related to, or attributed to, that sex

another person engages in unwelcome conduct of a demeaning nature in relation to the person harassed, in circumstances where a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

Conduct that subjects a person to a hostile workplace environment on the ground of sex, would include conduct where a reasonable person, having regard to all the circumstances, would have anticipated the possibility of the conduct resulting in the workplace environment being offensive, intimidating or humiliating to a person by reason of that person's sex, a characteristic that appertains generally to persons of that sex or a characteristic that is generally imputed to persons of that sex.

Sexual harassment, harassment on the ground of sex, or conduct that subjects a person to a hostile workplace environment on the ground of sex, can take many different forms and may include:

- Sexually explicit conversations
- Distribution or display of material regarded as sexually offensive
- Inappropriate staring or leering
- Persistent or intrusive questions or insinuations about a person's private life or physical appearance
- Unwelcome demands or requests for sexual favours, either directly or by implication
- Unwelcome sexual advances
- Uninvited deliberate physical contact
- Smutty or suggestive jokes or comments
- General sexual banter
- Repeated invitations to go out after prior refusal
- Communicating content of a sexual nature through social media or text messages
- Engaging in other unwelcome conduct of a sexual nature

Sexual harassment doesn't have to be repeated or continuous. It can be a one-off incident. Unwelcome behaviour of a sexual nature may occur where it is not explicitly rejected. It should not be assumed that behaviour is consensual because the individual has not complained about it. Sexual harassment also does not have to be directed at a specific person. It can affect people who are exposed to or witness it.

Whether a reasonable person would anticipate the possibility of offence, humiliation, or intimidation as a result of the conduct may differ based on personal characteristics, as well as the relationship between the people involved. It is important to be aware that not everyone in a workplace will have the same understanding of what is acceptable behaviour and that conduct that was not intended to be sexual or to offend, humiliate or intimidate can still constitute sexual harassment or harassment on the ground of sex.

In determining whether a person has subjected another person to a hostile workplace environment on the ground of sex, it is necessary to consider the seriousness of the conduct; whether the conduct was continuous or repetitive; and the role, influence or authority of the person engaging in the conduct.

Any breaches of relevant laws may result in the individual and Hays being held liable and where appropriate, may result in dismissal, as outlined in the section 'Consequences'.

## **What sexual harassment isn't**

It is important to distinguish between sexual harassment and behaviour which is based on mutual attraction, friendship and respect. If the interaction is consensual, welcomed and reciprocated, it is not sexual harassment.

## **When can sexual harassment occur?**

It is important to understand that sexual harassment in the workplace can extend beyond traditional office settings. Sexual harassment is against the law within work relationships, regardless of where the conduct occurs.

All workers are expected to conduct themselves in a professional manner whenever they are on Hays' premises or on a client's premises or third-party premises.

Unlawful behaviour is unacceptable during work hours in the workplace as well as in any work-related context including, but not limited to:

- Conferences
- Work functions
- Training
- Christmas parties
- Business trips or off-site client and candidate meetings
- Internet, social media, networking sites, email, and text messages

Sexual harassment can occur between co-workers, site managers/supervisors, clients, contractors, Hays consultants or other third parties. It does not matter that there is no intention to sexually harass. If the act did cause and should reasonably have been expected to cause that effect, it may amount to unacceptable and/or unlawful behaviour.

Sexual harassment will not be tolerated in any work-related environment and will be treated seriously. Information on support available can be found under 'Support Services'.

## **Eliminating sexual harassment in the workplace**

Hays has a legal obligation to eliminate this conduct as far as possible.

The onus of reporting sexual harassment doesn't rest just with complainants. This responsibility is shared by the whole organisation, including those in management and leadership positions. We encourage bystanders to act

where it is safe to do so. Hays supports and encourages bystanders to safely intervene (if possible) and report incidents of sexual harassment. Bystander intervention could include:

- Supporting and/or assisting someone who is experiencing sexual harassment in real time
- Calling out sexually explicit material and sexist jokes as unacceptable
- Assisting in diffusing a situation that occurs within the workplace

Support is available to all individuals involved in a situation including bystanders. More information on the support available can be found under 'Support Services'.

## Responsibilities

It is the responsibility of all workers to understand and adhere to this policy, the principles and legislation relating to sexual harassment and how they are applied in the workplace.

### Temporary worker

- Comply with this policy as well as the requirements of HP-149-06 – Equal Employment Opportunity, Anti-Harassment and Bullying – Temporary Workers.
- Ensure that they do not engage in conduct that is or could be considered sexual harassment, harassment on the ground of sex, conduct that subjects a person to a hostile workplace environment on the ground of sex, and all other types of unacceptable and/or unlawful behaviours
- Maintain confidentiality if they are involved in a complaint
- Ensuring that any associated unlawful behaviour temporary workers may witness or be subjected to is reported to their Hays consultant in an appropriate, confidential and timely manner

### Consultant (of temporary workers)

- Partner with temporary workers and clients to ensure as far as is reasonably practicable a safe workplace that is professional, productive and free from inappropriate and/or unlawful behaviour
- Provide an effective opportunity for temporary workers to escalate any concerns
- Deal with complaints promptly, confidentially and empathetically in consultation with all relevant stakeholders including the temporary worker, the client, Hays Health & Safety Team and if required any external Regulator
- If not already done so, and advised to do so by a member of the H&S Team, report the incident into Solv Safety
- Ensure that all temporary workers are familiar with this policy as well as the requirements of HP-149-06 – Equal Employment Opportunity, Anti-Harassment and Bullying – Temporary Workers and have completed the relevant Health and Safety module outlining how to address sexual harassment accordingly

### State/Territory/Country Health & Safety Manager

- Provide timely technical support and guidance to consultants, temporary workers, Regional/State Directors and other key stakeholders as and when required to ensure that any issues are brought to a satisfactory resolution as far as is reasonably practicable
- For any matter concerning a temporary worker ensure that the consultant has entered the relevant details into Solv Safety
- Escalate actual or potential risk of physical or psychological injury to the temporary worker to the Regional/State Director and relevant Managing Director whilst working through the issues
- Proactively keep the Head of Health & Safety - ANZ updated with any ongoing cases associated with sexual harassment affecting temporary workers
- Escalate to the Head of Health and Safety of cases for further consideration where required
- Liaise with regional Health and Safety Regulators on associated matters as and when required

## Head of Health & Safety - ANZ

- Ensure that all relevant parties are involved in issue resolution as and when required
- Ensure other technical expertise is sought as and when required
- Liaise with Health and Safety Regulators on associated matters that could potentially impact Hays across ANZ
- Ensure this Policy is regularly reviewed and kept up to date and promoted to key stakeholders

## Regional/State Director

- Support Health & Safety Teams in their resolution of any issues associated with unlawful behaviour involving temporary workers
- Ensure that all consultants under their management receive appropriate training and information on how to identify and effectively manage issues of sexual harassment regarding their temporary workers

## Consequences

Sexual harassment, harassment on the ground of sex, and conduct that subjects a person to a hostile workplace environment on the ground of sex by and/or towards co-workers, site managers/supervisors, clients, contractors, Hays consultants or other third parties is unacceptable behaviour, and Hays will not tolerate it under any circumstances. It can impact morale, productivity and job satisfaction.

Further, sexual harassment, harassment on the ground of sex and conduct that subjects a person to a hostile workplace environment on the ground of sex can lead to serious breaches of relevant laws as outlined under the section 'Legislation'. Not only can an individual be held personally liable for their action/s, but they may also cause Hays to be held vicariously liable for their wrongdoing.

Reporting incidents of unlawful behaviour is very important. Any reports of unlawful behaviour will be treated seriously and empathetically by Hays. Disciplinary action will be taken against anyone found to be sexually harassing, harassing on the ground of sex, or engaging in conduct that subjects a person to a hostile workplace environment on the ground of sex, and where appropriate, may result in dismissal.

Any frivolous allegations of unlawful behaviour that are made maliciously with the intent to harm a person will not be tolerated under any circumstances. Such allegations will be treated seriously and may result in disciplinary action and where appropriate, dismissal.

## Victimisation

It is against the law to penalise or victimise a person for coming forward and making a complaint of sexual harassment unless the complaint is false and not made in good faith.

Victimisation can include, but is not limited to:

- Demoting or threatening to demote someone because they have made a complaint or might make a complaint
- Ostracising or excluding a worker in the workplace because they helped a colleague make a complaint
- Denying a promotion to a complainant because they alleged that someone in the workplace sexually harassed them
- Moving a worker who has made a complaint to another office without first checking if they want to move
- Sacking, or threatening to sack, someone who has made a complaint

Victimisation includes behaviour towards 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. Hays will not tolerate victimisation under any circumstances. Disciplinary action will be taken against anyone found to be victimising a worker which may result in dismissal.

## Issue resolution options

Instances of associated unlawful behaviour can vary widely in nature requiring a flexible approach to find the most appropriate solution which may necessitate the involvement of several key stakeholders to resolve an issue or concern.

Where an issue is identified either from a temporary worker or client, the following will take place:

- Gather and record key information about the temporary worker's concern and try to establish what has taken place
- Escalate the issue to the Health & Safety Team outlining the nature of the concern. Where there is an actual or potential risk of physical or psychological injury to the temporary worker the H&S team will make the relevant Regional Managing Director aware
- Agree who will be managing the complaint process, investigating what has taken place and work to outline an action plan to expedite a resolution

Where relevant and based on the nature of the issues raised, potential solutions may include:

- Mediation between the temporary worker and the alleged perpetrator with prior approval from the client, temporary worker and individual to whom the allegations are being made against
- Potentially reassigning the temporary worker to another role either with the same client or even a completely different client
- Providing appropriate training to involved parties
- Offering the Hays Employee Assistance Programme as support to the temporary worker
- Escalating and working with the relevant external Regulator if required

The safety and wellbeing of the person disclosing or reporting relevant unlawful conduct is a priority for Hays. Workers have access to support services at any time. More information can be found under 'Support Services'.

## Confidentiality

Hays is committed to creating an environment where workers feel confident to talk about their experiences of sexual harassment and feel supported throughout the process. Hays will maintain confidentiality as far as possible and endeavour to limit the disclosure of information to only those that need to know, such as the relevant manager/department at the client.

## Closing statement

This policy demonstrates Hays' commitment to protecting and promoting a culture and work environment that is free of sexual harassment, harassment on the ground of sex and conduct that subjects a person to a hostile workplace environment on the ground of sex. Everyone at Hays, regardless of status or level, is responsible for creating a productive, physically and psychosocially safe, fair and equitable workplace. We expect all workers and third parties (such as customers and clients) to actively contribute to our culture so that every worker will have an equal opportunity to be successful and advance their career within the business.

## If you need help with this policy

Any questions about this Policy should be directed to your Hays consultant or H&S manager. If you want to provide any feedback relating to this policy you can email [customer.care@hays.com.au](mailto:customer.care@hays.com.au).

## Review

This policy will be reviewed every 24 months.

## Support services

### Respect at Work (AU)

- <https://www.respectatwork.gov.au/>

### Fair Work Commission (AU)

- <https://www.fwc.gov.au/>

### Employment New Zealand (NZ)

- <https://www.employment.govt.nz/resolving-problems/types-of-problems/bullying-harassment-and-discrimination/sexual-harassment/>

### Employment Relations Authority (NZ)

- <https://www.era.govt.nz/>

### Lifeline Australia

- Contact 13 11 14 for 24/7 crisis support
- <https://www.lifeline.org.au/>

### Lifeline Aotearoa

- Contact 0800 543 354 for 24/7 crisis support
- <https://www.lifeline.org.nz/>

### 1800 RESPECT

- Contact 1800 737 732 for 24/7 access for those impacted by sexual assault, domestic or family violence, and abuse
- <https://www.1800respect.org.au/>

### Safe to Talk NZ

- Contact 0800 044 334 for 24/7 access for those that are impacted by sexual harm
- <http://www.safetotalk.nz/>
- If you experience criminal conduct, such as sexual assault, you can also report this to the police in your local area.



## Appendix A

### Australian State & Territory Legislation

This section provides a list of Australian, State and Territory legislation that governs sexual harassment.

#### Australian Commonwealth Acts

- Fair Work Act 2009 (Cth)
- Sex Discrimination Act 1984 (Cth)
- Australian Human Rights Commission Act 1986 (Cth)

#### New South Wales

- New South Wales Anti-Discrimination Act 1977 (NSW)
- Work Health & Safety Act 2011

#### Victoria

- Charter of Human Rights and Responsibilities Act 2006 (VIC)
- Equal Opportunity Act 2010 (VIC)
- Occupational Health & Safety Act 2004

#### Australian Capital Territory

- Human Rights Act 2004 (ACT)
- Work Health & Safety Act 2011

#### South Australia

- Equal Opportunity Act 1984 (SA)
- Work Health & Safety Act 2012

#### Western Australia

- Equal Opportunity Act 1984 (WA)
- Work Health & Safety Act 2020

#### Queensland

- Work Health & Safety Act 2011

#### Northern Territory

- Work Health & Safety (National Uniform Legislation) Act 2011

#### Tasmania

- Work Health & Safety Act 2012

#### New Zealand

- Health & Safety at Work Act 2015