



VOLUNTEERS AND THE EQUAL OPPORTUNITY ACT 2010

INFORMATION PACK

On 1 August 2011 new legislation commenced that is designed to improve the way we combat discrimination and sexual harassment in Victoria.

For volunteers, the change means new protections against **sexual harassment**. For organisations there are some practical implications for the way volunteering is coordinated.

Volunteering Victoria has created this information pack to help organisations understand and meet their responsibilities toward volunteers under the Equal Opportunity Act 2010.

WHAT'S IN THE PACK

- A fact sheet outlining the legislation's impact on volunteering
- A sample policy and procedures document
- Links to more resources on the web (within fact sheet)
- Options for further advice and training

GET STARTED

1. Carefully read the material in this information pack and consult the other recommended resources if desired
2. Plan how your organisation will respond to its new responsibilities towards volunteers – use the sample policy and procedures provided as a starting point
3. Make sure the decision-makers in your organisation know of and understand the legislative change and its implications
4. Get help if you need it – see over for Advice and Support



ADVICE AND SUPPORT

1. CALL US: 03 8327 8506

Volunteering Victoria has set aside dedicated times from June to August to respond to queries about the legislation.

WHEN

Wednesdays, 11am to 1pm (weekly until 31 August)

For help at other times email us at info@volunteeringvictoria.org.au (response within two business days).

Note: The Victorian Equal Opportunity and Human Rights Commission can also provide information by phone or email: 1300 292 153/enquiries@veohrc.vic.gov.au

2. LIVE ONLINE Q&A

Discuss your difficulties or successes in complying with the Equal Opportunity Act live at three moderated Q&A sessions in the Volunteering Victoria online forums.

WHEN

12pm on 15 June, 13 July and 17 August

HOW TO ACCESS THE FORUMS

- Go to www.volunteeringvictoria.org.au
- Under Members in the top menu, go to Discussion Boards

3. TRAINING

Volunteering Victoria is confident that most volunteer-involving organisations will have little trouble meeting their legislated responsibilities.

But the culture of some organisations may make it harder to talk about sexual harassment and ensure volunteers understand their rights and responsibilities.

Volunteering Victoria has engaged the Victorian Equal Opportunities and Human Rights Commission to deliver a 'Train the Trainer' workshop on sexual harassment. Participants attending the workshop include Volunteer Resource Centres and Services and convenors of volunteering peer networks. Over the coming months, those participants will be able to roll out sexual harassment training in their organisations, networks and regions.

Volunteering Victoria will publish relevant training dates online at www.volunteeringvictoria.org.au

SEXUAL HARASSMENT

On 1 August 2011 Victorian law about sexual harassment extended to include volunteers.

Organisations gained a new responsibility under this law to make it clear to their volunteers that sexual harassment is not acceptable.

Rights all round

Before this, sexual harassment laws did not apply in volunteering situations. So if a volunteer was harassed, it was not against the law – even if the same behaviour directed at paid staff might be considered unlawful.

All that changed on 1 August 2011 when Victoria's *Equal Opportunity Act 2010* came into force. Volunteer workers gained **the same rights and protections** as paid employees—even if everyone in an organisation or group is a volunteer themselves.

Of course, this change doesn't just protect volunteers from harassment; it means volunteers too must abide by the law.

On your watch

Under the new legislation, every organisation with volunteer workers is required to make sure volunteers know sexual harassment is **not OK**.

Whether you're incorporated or not, big or small, funded or broke, you'll need to do what you can to create a culture in which sexual harassment is not acceptable in any form. This includes setting up processes to respond appropriately if it does happen.

Organisations that do this will in most cases meet their responsibilities under the legislation. But if you turn a blind eye and harassment occurs, the organisation and the people in charge may be considered **liable**.

More to the law

The *Equal Opportunity Act 2010* makes **discrimination** illegal in many contexts.

While volunteers are not explicitly protected from discrimination under this law, volunteer-involving organisations may well need to comply with the law in relation to other activities.

For information on discrimination, contact the Victoria Equal Opportunity and Human Rights Commission www.humanrightscommission.vic.gov.au or 1300 292 153

"Just kidding!"

Sexual harassment is against the law – "I was only joking" is not a defence.

It includes any behaviour of a sexual nature that could be reasonably expected to make someone feel offended, humiliated or intimidated. For example:

- An unwelcome sexual advance
- Unwelcome **comments** about someone's sex life or physical appearance
- Sexually offensive comments, stories or **jokes**

Learn more about what behaviour constitutes sexual harassment from the [Victorian Equal Opportunity and Human Rights Commission website](http://www.humanrightscommission.vic.gov.au)

Police it with policy

The best way to make it clear what sort of behaviour is expected from volunteers and those they work with is to put in place a policy—and make sure people understand it.

You should include an explanation of the policy in **induction** for new volunteers and ongoing **training**. Every member, volunteer, employee and committee or board member should subsequently sign the policy to confirm they understand:

- what sexual harassment means
- that it is against the law
- what they can do if they have been harassed
- what will happen if they are accused of harassment.

You can adapt Volunteering Victoria's *Sample Policy & Procedures* to your needs. Many organisations already have sexual harassment policies covering their paid staff; if this applies, you could work with your human resources team to extend this to volunteers.

However it is formed, your policy needs to be **more than a piece of paper**. To really walk the walk, you must be prepared to take action if harassment occurs.

Deal with it

Your policy will need to include an established procedure for managing complaints of sexual harassment.

It should lay out:

- who will deal with complaints
- how the privacy of those involved will be protected
- what you will do to try to resolve the issue.

Volunteering Victoria's *Fast Facts—Dealing with conflict* has more detail about managing grievance procedures internally.

A volunteer who has been harassed may also choose to take their complaint to the Victorian Equal Opportunity and Human Rights Commission. The Commission will be obliged to follow up disputes and can impose penalties on the person accused – and the organisation or group that oversees them.

Who's covered

In some types of organisation, sexual harassment law will apply to stakeholders thought of as **outside** the organisation.

If sexual harassment occurs between volunteers and the stakeholders listed below, it will be against the law.

Industrial organisations

The law will apply to members and prospective members

Qualifying bodies

Members and people applying for an occupational qualification will be covered

Educational institutions

Students and prospective students are governed by the law

Clubs

The law covers members, board and committee representatives

More information

Volunteers and sexual harassment— on the [Victorian Equal Opportunity and Human Rights Commission website](#)

Enquiry line—Victorian Equal Opportunity and Human Rights Commission: 1300 292 153 or enquiries@veohrc.vic.gov.au

The legislation – [Equal Opportunity Act 2010](#)

Volunteering Australia – [Tips for setting up volunteer grievance policies and procedures](#)

SAMPLE POLICY & PROCEDURES

SEXUAL HARASSMENT



This policy and procedures document is intended as a sample only: you should adapt it to the name, titles and circumstances of your organisation.

In implementing a sexual harassment policy and procedures you must identify the person or people who will be the first point of contact for complaints of sexual harassment for volunteers and paid staff: this might be the manager of volunteer services, program or organisation manager, human resources staff or a member of the board, depending on the size and structure of your group.

This person should have the requisite knowledge, skills and experience to receive complaints. For the purposes of this *sample* document, this person has been labeled “*sexual harassment contact*”.

Statement of policy

Sexual harassment is unlawful. This organisation does not tolerate sexual harassment in any form. Every volunteer, staff member and supervisor has a responsibility to ensure that sexual harassment does not occur.

Anyone found to have sexually harassed another person will be subject to disciplinary action that may include an apology, counseling, transfer of duties or dismissal.

Reports of sexual harassment will be treated promptly, seriously and confidentially. Complainants have the right to determine how a complaint will be treated. They also have the right to have a supporter or representative chosen by them involved in the process and the option to stop the process at any time.

The alleged harasser also has the right to have a supporter or representative chosen by them present when he/she responds to the allegations made.

No volunteer or paid staff member will be treated unfairly as a result of making a complaint of sexual harassment. Immediate disciplinary action will be taken against anyone who victimises or retaliates against someone who has made a complaint of sexual harassment.

The organisation will afford natural justice to any person involved in a dispute.

Definition of sexual harassment

Sexual harassment includes any unwelcome behaviour of a sexual nature that could be reasonably expected to make someone feel offended, humiliated or intimidated.

This may include (but is not restricted to):

- an unwelcome sexual advance
- a request for sexual favours

SAMPLE POLICY & PROCEDURES

SEXUAL HARASSMENT



- unwelcome comments about someone's sex life or physical appearance
- leering and ogling
- sexually offensive comments, stories or jokes
- displaying sexually offensive photos, pinups or calendars, reading matter or objects
- sexual propositions or continued requests for dates
- physical contact such as touching or fondling, or unnecessary brushing up against someone
- indecent assault or rape (these are criminal offences).

Sexual harassment may occur between one volunteer and another, between volunteers and staff members, or between volunteers and clients, suppliers or visitors. It may occur wherever volunteers and paid staff are interacting with others in the context of their position in the organisation, including field trips, work off site and social functions.

Making a complaint

A volunteer or paid staff member who has been harassed may choose to take their complaint to the Victorian Equal Opportunity and Human Rights Commission.

Contact for the Victorian Equal Opportunity and Human Rights Commission: 1300 292 153

Internal complaint

A volunteer or paid staff member who believes they have been harassed (the complainant) should:

- if comfortable to do so, inform the alleged harasser the behaviour is offensive, unwelcome, against the organisation's policy and should stop
- make a note of the date, time and location of the incident/s
- if not comfortable to confront the alleged harasser or if unwelcome behaviour continues, report to the nominated *sexual harassment contact*
- if this is inappropriate, speak to another senior member of the organisation, such as a senior manager, the head of the organisation or a member of the board.

The *sexual harassment contact* will follow the procedures set out below. At any time the complainant has the right to discontinue this process.

Complaints process

When a complaint is received, the *sexual harassment contact* will:

- obtain and record a full, step-by-step account of the incident/s
- ensure the organisation's process for handling the complaint is understood
- ascertain the complainant's preferred outcome, e.g. an apology, the behaviour to cease, a change in working arrangements
- agree on the next step: informal resolution or formal investigation
- keep a confidential record of all details of this discussion and subsequent steps in the process.

SAMPLE POLICY & PROCEDURES

SEXUAL HARASSMENT



Informal resolution

Where a complainant has chosen informal resolution, following an informal process the *sexual harassment contact* will:

- inform the alleged harasser of the complaint and provide an opportunity to respond
- ensure both parties understand their rights and responsibilities under the organisation's policy
- if possible, mediate an outcome that is satisfactory for the complainant
- ensure that confidentiality is maintained
- follow up to ensure the behaviour does not re-occur.

Formal investigation

If a formal investigation is requested by the complainant, or if an informal resolution fails, the *sexual harassment contact* will escalate the matter to a senior member of the organisation.

That person will:

- afford natural justice to all involved
- interview all directly concerned, separately
- interview witnesses, separately
- keep records of the interviews and investigation
- ensure confidentiality and minimise disclosure
- make a determination as to whether there is sufficient evidence that a reasonable person could conclude, on the balance of probabilities (i.e. it's more likely than not), that an incident/incidents of sexual harassment as defined by the legislation has occurred
- in such a case, determine appropriate action, which may include a change of duties for the harasser, change to working arrangements or, where the incidents were frequent and/or severe, dismissal
- where it cannot be determined by the required test, that an incident/incidents of sexual harassment as defined by the legislation has occurred, may still take action to ensure the proper functioning of the workplace; but these actions should not prejudice any party. They will also continue to closely monitor the situation and provide retraining where required
- check to ensure the action meets the needs of the complainant and organisation.

Outcomes as they affect the complainant will be discussed with the complainant to ensure that needs are met, where appropriate.

Key resource

Effectively preventing and responding to sexual harassment: A Code of Practice for Employers by the Australian Human Rights Commission. http://www.hreoc.gov.au/sexualharassment/employers_code/COP2008.pdf