

1. PURPOSE

Geelong Cemeteries Trust (GCT) has a positive duty to provide safe, respectful and inclusive workplaces free of sexual harassment and discrimination.

GCT will respond to sexual misconduct in a trauma-informed and procedurally fair way.

Sexual harassment is defined under section 28A of the Sex Discrimination Act 1984 (Cth). Sexual harassment is unethical, unlawful and may be a criminal offence. Sexual harassment is unacceptable and will not be tolerated in the workplace.

Sexual harassment constitutes a breach of this Policy, as well as GCT's Code of Conduct and is not in accordance with GCT's Values of Responsiveness, Integrity, Accountability, Respect, Environmental Responsibility, Leadership, Inclusivity, and Human Rights.

This Policy should be read in conjunction with other GCT policies and procedures that outline our commitment to expected behaviours and conduct, implemented through relevant codes, policies, and procedures outlined in *Section 17 – Legislation and Supporting Documents*.

2. SCOPE

This Policy applies to:

- All persons who perform work for or on behalf of GCT, including Board Members, employees, contractors, consultants, contingent labour hire and community advisory members. For the purpose of this policy, a reference to staff is a reference to each of these persons.
- The Workplace is not limited to GCT's premise nor to normal working hours. It includes any place where work is carried out for GCT or any place where staff go while at work, including work functions and events, during work-related travel, and via electronic communication and social media, including out of hours communication.

3. OBJECTIVES

Guiding objectives for this Policy are:

- **Consistent leadership:** leaders continuously reinforce that sexual harassment is unacceptable, model safe and respectful behaviour, and foster a safe reporting culture.
- **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 workplace.
- **Prevention:** sexual harassment is prevented by addressing gender inequality and unequal power relations as the key drivers and identifying and managing key risk factors.
- **Early intervention:** early intervention approaches are used, where possible, to address workplace sexual harassment and prevent escalation.
- **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.

- **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.
- **Responsive to diverse needs:** understanding, respecting and embracing the many aspects of a person's identity in preventing and responding to sexual misconduct.

4. SEXUAL HARASSMENT

Sexual harassment is any unwelcome advance, request for favour, behaviour or conduct of a sexual nature which intimidates, humiliates or offends another person, in circumstances where a reasonable person would have anticipated the possibility that the person harassed would feel humiliated, intimidated or offended. Examples of sexual harassment can include:

- actual or attempted sexual assault or rape
- unwelcome physical contact such as touching, hugging, patting, pinching, cornering or kissing
- pressuring someone for sexual favours
- staring at a person or at parts of their body
- using suggestive or sexualised nicknames for colleagues
- suggestive or intrusive comments/questions of a sexual nature about someone's personal life, sex life, sexual orientation, gender identity, dress or physical appearance
- sexually oriented or offensive jokes, innuendos, or sexually explicit conversations
- persistent, unwanted invitations to go out on a date or stalking
- displaying or sending/forwarding offensive sexually explicit or indecent messages or images.

4.1 When, where and how can sexual harassment occur?

Sexual harassment can occur:

- at any time, in any situation where a staff member interacts with colleagues, contractors, stakeholder, clients and visitors
- anywhere in the workplace (including at the staff member's work location, while working from home and at work-related events (e.g. conferences, functions, Christmas and/or end of year parties and business trips)
- in different forms including physically, verbally, in writing or through electronic communications (phone, email, text/instant messaging, and social media)
- regardless of gender identity or sexual orientation, and can be by someone from the same or different gender identity or sexual orientation
- when there is no intent to cause offence - the test is whether a reasonable person, considering the circumstances, would have anticipated the possibility that the person harassed would be humiliated, intimidated or offended
- in a single act or as a series of acts
- outside of work and in relation to the relationships and interactions between colleagues.

4.2 Sexual harassment is not:

- behaviour based on mutual attraction, friendship, and respect.
- interactions that are consensual, welcome, and reciprocated.

Importantly, sexual conduct that has been welcomed in the past can become unwelcome.

5. SEX-BASED HARASSMENT

Sex-based harassment is any unwelcome conduct of a demeaning nature by reason of the person's sex in circumstances in which a reasonable person would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated. Sex-based harassment includes sexist behaviour that is not necessarily sexual. Examples of sex-based harassment include:

- asking intrusive personal questions based on a person's sex
- making inappropriate comments and jokes to a person based on their sex
- displaying images or materials that are sexist, misogynistic or misandrist
- making sexist, misogynistic or misandrist remarks about a specific person
- requesting a person to engage in degrading conduct based on their sex.

6. HOSTILE WORK ENVIRONMENT

A workplace environment is hostile on the grounds of sex if a reasonable person, having regard to all the circumstances, would have anticipated the possibility of the conduct resulting in a workplace environment that is offensive, intimidating or humiliating to a person of a particular sex because of:

- the sex of that person.
- a characteristic that generally relates to a person of that sex; or
- a characteristic a person is generally thought to have because of their sex.

A person (the perpetrator) will have subjected another person (the person exposed) to a workplace environment that is hostile on the ground of sex if the:

- perpetrator engages in hostile conduct in a workplace where they, the person exposed, or both persons work; or
- person exposed is subjected to hostile conduct in the workplace at the same time as, or after, the hostile conduct occurs.

Conduct which creates a hostile working environment does not necessarily need to be directed at a specific person.

Examples of hostile conduct on the grounds of sex may include:

- displaying obscene or pornographic materials; and
- using offensive language, jokes, or sexual innuendo which feel hostile to the members of one sex.

7. SPEAKING UP

7.1 Reporting Sexual Harassment

GCT strongly encourages staff who believe they have been sexually harassed or have witnessed sexual harassment to report the behaviour:

- (a) are required to make a complaint – in the first instance, members of staff should approach and inform management. However, if the staff member feels that it is not appropriate, they may contact a member of the Executive Leadership Team or Human Resources.
- (b) may talk to the harasser directly – this should be done only if the individual feels comfortable and safe doing so, noting this approach may suit some situations and staff members, but not others.

GCT will support all members of staff who are affected by sexual harassment in carrying out the above actions. All allegations of sexual harassment will be taken seriously. The primary concern of GCT when responding to sexual harassment will be the safety and wellbeing of those affected by the alleged conduct.

Staff are encouraged to make timely reports, while being reassured they will not be treated unfairly because of any delay in reporting unacceptable behaviours.

7.2 Bystander

GCT strongly encourages and supports bystanders to call out and report unacceptable behaviours where it is safe for them to do so. Bystanders can be an important part of the solution. A supportive bystander will act to protect the rights of others. A supportive bystander will use words and/or actions that can help someone who is being sexually harassed. If bystanders are confident to take safe and effective action to support victims, then there is a greater possibility that the sexual harassment can stop and that the impact of the behaviours on the victim can be minimised.

8. CONFIDENTIALITY

Disclosures or complaints will be treated in the utmost confidence to protect the privacy of the complainant and the victim, as much as possible. However, allegations of sexual harassment or potential criminal conduct can be serious. In some instances, a matter may need to be escalated or referred to Police or WorkSafe without the consent of the complainant and/or the victim, particularly in circumstances that may:

- (a) constitute a criminal offence
- (b) constitute an occupational health and safety risk
- (c) require disciplinary action.

Where appropriate, GCT will aim to advise the complainant regarding who information will be shared with at each step of the process.

9. MANAGING CONSENSUAL RELATIONSHIPS IN THE WORKPLACE

Where two employees are in a consensual relationship, both employees will be bound by GCT Conflict of Interest – Governance Policy. This policy outlines the standard of conduct expected of GCT employees.

10. VICTIMISATION

Staff members who raise sexual harassment concerns should feel confident to do so without fear of victimisation. GCT does not tolerate victimisation.

Victimisation occurs when a person is subjects or threatens to subject another person to a detriment (including when someone is retaliated against, subjected to pressure, adverse comment, isolation or other detrimental behaviour) because they:

- raised, or are considering raising, a complaint about discrimination, harassment (including sexual harassment or sex-based harassment), conduct which creates a hostile work environment, bullying, victimisation or vilification.
- are part of a complaint made by someone else (including being a witness or providing information).
- supported someone else who has made a complaint.

In some circumstances, victimisation may also be against the law.

To avoid doubt, vexatious claims are not protected and a person who makes a vexatious claim may be subject to disciplinary action, up to and including the termination of their employment or their contractor engagement with GCT.

11. SUPPORT

Staff who have experienced or witnessed unacceptable behaviours can access support by:

- speaking to a member of the executive team, management, human resources, health and safety officer or union representative to raise concerns, receive support and discuss options that could help resolve the issue.
- access the Employee Assistance Program (EAP) 1800 808 374
- seek advice and support from an external body:
- reporting sexual harassment to the police - 000
- Australian Human Rights Commission – 1300 656 419
- a legal practitioner
- 1800RESPECT 1800 737 732
- Lifeline 13 11 14
- Beyond Blue Support Service 1300 22 4636
- Aboriginal & Torres Strait Islander Support Line – 13 9276 (13YARN)

12. KNOWLEDGE AND EDUCATION

GCT will make sure management are trained to appropriately respond to disclosures of unacceptable behaviours, ensure all employees are trained to appropriately identify unacceptable behaviours, call out behaviours as active bystanders, and are aware of the reporting and response procedures.

13. CONTINUOUS IMPROVEMENT

Implement appropriate reporting regimes to track relevant data for trends, patterns and lessons to drive continuous improvement.

People Matter Survey (PMS) contains questions aimed at understanding employee perceptions of the adequacy and success of Sexual Harassment Prevention.

14. COMPLIANCE

Sexual harassment, sex-based harassment and creating a hostile work environment are unlawful conduct and prohibited under Federal, State and Territory Legislation. Staff may be personally liable if they engage in such conduct and GCT may also be vicariously liable (legally responsible) for the actions of a staff member.

Some forms of sexual harassment such as sexual assault, rape and stalking may also constitute a criminal offence under State and Territory Legislation. In some cases, GCT may be required to report the matter to the Police.

Failure to comply with this Policy and other related procedures may amount to a breach of this Policy and lead to disciplinary action, up to and including termination of employment or the termination of a contractor's engagement. This Policy must be read together with the relevant procedures.

SEXUAL HARASSMENT PREVENTION

Governance Policy

Document ID:

15. ACCOUNTABILITY

For the purpose of this Policy:

Role	Accountability
Board	Is the Approving Authority of a Governance Policy within the Policy Framework.
	Act as sexual harassment prevention Ambassadors.
	Role model appropriate standards of behaviour and promote a work culture where sexual harassment is unacceptable.
Executive Performance, Remuneration and Governance Committee (EPRG Committee)	Provides independent assurance and assistance to the Board Chairperson and Chief Executive Officer (CEO) regarding this Policy.
Chief Executive Officer (CEO)	Role model appropriate standards of behaviour and promote a work culture where sexual harassment is unacceptable.
	Accountable for ensuring legislation obligations under this Policy.
	Approves the Sexual Harassment Prevention Action Plan.
	Appoint a person or persons to investigate allegations of sexual harassment and deciding on appropriate disciplinary action if the allegation is substantiated.
Human Resources	Is the Designated Officer for developing, reviewing and support the implementation of this Policy.
	Develop the Sexual Harassment Prevention Plan and provide strategic guidance.
	Promote a work culture where sexual harassment is unacceptable by raising awareness of the Sexual Harassment Prevention Plan.
Executive Leadership	Role model appropriate standards of behaviour; promote a work culture where sexual harassment is unacceptable by raising awareness of the Sexual Harassment Prevention Action Plan; promoting a speak up culture.
	Take responsibility for the Sexual Harassment Prevention Plan objectives, and fostering a psychologically, socially and culturally safe work environment.
Management	Role model appropriate standards of behaviour; promote a work culture where sexual harassment is unacceptable by raising awareness of the Sexual Harassment Prevention Action Plan; promoting a speak up culture.
	Promptly address inappropriate behaviours in line with the Code of Conduct and any other relevant policies.
	Prioritise the care and support of those impacted when responding to issues raised with them or observed
	Treat all reports of sexual harassment seriously and confidentially and take prompt action to address them (considering the wishes of the person subjected to the sexual harassment).

SEXUAL HARASSMENT PREVENTION

Governance Policy

Document ID:

	Ensure staff who report alleged sexual harassment, lodge grievances or witness sexual harassment are not victimised or discriminated against.
Staff	Demonstrate high levels of personal conduct consistent with this Policy and their responsibilities under the Code of Conduct. This means you must treat others with dignity, courtesy and respect and not engage in sexual harassment or condone sexual harassment by others.
	Take reasonable care to ensure your own safety and health and avoid adversely affecting the safety and health of any other person through any conduct which is unlawful or may amount to a breach of this Policy.
	Offer support to staff who claim they are experiencing sexual harassment, including providing information about how to make a complaint.
	Treat information in relation to claims of sexual harassment with appropriate confidentiality.
	Support the implementation of the Sexual Harassment Prevention Action Plan through active engagement.
	Speak up if witnessing sexual harassment or sex-based harassment in the workplace or the creation of a hostile work environment.

16. DEFINITIONS

Term	Definition
Positive duty	Imposes a legal obligation on employers and persons conducting a business or undertaking (or PCBU) to take proactive and meaningful action to prevent workplace sexual harassment, sex discrimination, sex-based harassment, conduct that amounts to subjecting a person to a hostile workplace environment on the ground of sex and victimisation from occurring in the workplace or in connection to work.
Management	A term used to cover the job descriptions of manager, supervisors and team leaders.
Trauma-informed response	A response that demonstrates an understanding and recognition of the impact of trauma, and emphasises physical, psychological, and emotional safety, and the importance of empowerment and choice for those who have been subjected to sexual assault or sexual harassment or gender-based violence.
Vexatious Claims	Where a complainant makes frivolous or malicious claim without basis against a respondent, such as where intentionally false or misleading information is provided, relevant information is withheld, facts are distorted or there is no demonstrated commitment to resolution.

17.

SEXUAL HARASSMENT PREVENTION

Governance Policy

Document ID:

18. LEGISLATION AND SUPPORTING DOCUMENTS

Legislation:	<i>Equal Opportunity Act 2010 (Vic)</i> <i>Fair Work Act 2009 (Cth)</i> <i>Occupational Health and Safety Act 2004 (Vic)</i> <i>Sex Discrimination Act 1984 (Cth)</i> <i>Work Health and Safety Act 2011 (Cth)</i>
Policy:	Code of Conduct – Governance Policy Discrimination, Harassment and Bullying Prevention – Governance Policy Health, Safety and Wellbeing – Governance Policy
Procedure:	Individual Employee Grievance - Operational Procedure
Frameworks:	Risk Management Framework
Forms:	

19. VERSION CONTROL

Title:	Sexual Harassment Prevention – Governance Policy
Document ID:	1
Version Control:	1
Audience:	Staff
Category:	People and Culture
Subcategory:	
Effective Date:	23/04/2024
Review Date:	30/04/2025
Designated Officer:	Chief Executive Officer
Approval Authority:	Board