

**It should go without saying that sexual harassment in any context is completely unacceptable. Victorian laws that protect people from sexual harassment include volunteers – who have the same rights and responsibilities as paid staff.**

### On your watch

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 unfunded, paid or made up entirely of volunteers, you will need to do what you can to maintain a respectful culture in which sexual harassment is not acceptable in any form. You should ensure your sexual harassment policies cover volunteers as well as paid staff. 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 towards a volunteer or by a volunteer when you could have reasonable action to prevent the behaviour, the organisation and the people in charge may be considered liable.

Your organisation could be held legally responsible for the actions of its volunteers if they sexually harass someone else. This 'vicarious liability' can be avoided if your organisation takes all reasonable steps to prevent sexual harassment

### Times have changed – and so have the laws

In the past, 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

### '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

### A strong culture of safety and respect based on robust policies

The best way to make it clear what sort of behaviour is expected from volunteers and those they work with is to foster a respected and protected culture based on clear policies.

If a person is subjected to harassment, your organisation should make them feel respected and listened to. The person should feel security that there will be no repercussions for their role or future career and that they will continue to be treated with respect as a co-worker, and without stigma.

To establish a culture where every member of the team feels safe and empowered if harassment does occur:

- **Lead by example** – people naturally take their cues from those above them in a hierarchy. However anyone in any position can be a leader and establish boundaries.
- **Listen to people who come forward with an issue** – and take it seriously when someone raises a concern or makes an accusation.
- **Make it clear what will not be tolerated** – if an organisation similar to yours is in the news for wrongdoing, use it as an example of what is not acceptable in your organisation

## Turning your policies into action

You can adapt Volunteering Victoria's *Sample Sexual Harassment Policy & Procedures* to your needs. Many organisations already have sexual harassment policies covering their paid staff; if this applies, you should 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.

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.

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

## When it does happen

A volunteer who feels they have been sexually harassed by a staff member, volunteer, client or member of the public (while performing their volunteer duties) should be encouraged to report this to a designated person in your organisation.

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

Volunteering Victoria's Fast Facts— Dealing with Conflict is available on-line and has more detail about managing grievance procedures internally

## Legal obligations and liability

The *Victorian Equal Opportunity Act (2010) – Part 6* – prohibits sexual harassment, including in relation to volunteers in the workplace or a person associated with the organisation in a range of ways.

Volunteer workers have the same rights and protections as paid employees — even if everyone in an organisation or group is a volunteer themselves. Of course, while volunteers are protected from harassment; volunteers too must abide by the law

## Who is covered

In some types of organisations, 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 (employee associations unions),
- qualifying bodies,
- educational institutions,
- people providing goods and services,
- people providing accommodation,
- club members and
- local government councilors.

## Where else to go

A volunteer may take a complaint to the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) or the Australian Human Rights Commission. These Commissions do not have the power to make orders or award compensation but they will attempt to resolve the matter through reconciliation. This might include an apology, development of new policies and training and in some situations, the organisation offering to pay financial compensation.

### **Victoria Equal Opportunity and Human Rights Commission**

Under the Equal Opportunity Act and the Racial and Religious Tolerance Act, the Commission helps people resolve complaints of sexual harassment through a free, fair and timely dispute resolution service with the aim of achieving a mutual agreement.

[www.humanrightscommission.vic.gov.au](http://www.humanrightscommission.vic.gov.au)

Contact the enquiry line – 1300 292 153 or email [enquiries@veohrc.vic.gov.au](mailto:enquiries@veohrc.vic.gov.au)

### **Australian Human Rights Commission**

The Australian Human Rights Commission works in partnership with a broad range of groups to promote gender equality and counter discrimination, sexual harassment, violence against women and other barriers to equality.

[www.humanrights.gov.au](http://www.humanrights.gov.au)

Contact by phone 1300 656 419 or via [www.humanrights.gov.au/complaints/make-complaint](http://www.humanrights.gov.au/complaints/make-complaint)

### **Victorian Civil and Administrative Tribunal (VCAT)**

A volunteer can also bring the matter to the Victorian Civil and Administrative Tribunal (VCAT) – whether or not the issue has been brought to VEOHRC or the Australian Human Rights Commission.

[www.vcat.vic.gov.au](http://www.vcat.vic.gov.au)

Contact by phone 1300 01 8228 (1300 01 VCAT) or via [www.vcat.vic.gov.au/get-started/equal-opportunity/apply-to-resolve-a-dispute-about-unlawful-discrimination-sexual](http://www.vcat.vic.gov.au/get-started/equal-opportunity/apply-to-resolve-a-dispute-about-unlawful-discrimination-sexual)

## More information

Information resources on volunteers and sexual harassment can be found at:

[www.humanrightscommission.vic.gov.au/the-workplace/volunteers-and-equal-opportunity](http://www.humanrightscommission.vic.gov.au/the-workplace/volunteers-and-equal-opportunity)

Victorian Equal Opportunity Act 2010 legislation  
[www.legislation.vic.gov.au/Domino/Web\\_Notes/LDMS/PubStatbook.nsf/f932b66241ecf11b7ca256e92000e23be/7CAFB78A7EE91429CA25771200123812/\\$FILE/10-016a.pdf](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/f932b66241ecf11b7ca256e92000e23be/7CAFB78A7EE91429CA25771200123812/$FILE/10-016a.pdf)