

## 1. CONTEXT

ConsMin is firmly committed to providing a safe environment which includes within the workplace, travel to and from the workplace and time off work. Sexual harassment of any form is unlawful and is considered by ConsMin to be unacceptable behaviour which will not be tolerated under any circumstances.

The purpose of this policy is to ensure that all ConsMin employees, contractors, sub-contractors, potential employees, and visitors understand they have a right to be treated with dignity, courtesy and respect, and in accordance with the law, and that they also have a strict obligation to treat others in the same way.

All individuals must ensure they understand ConsMin's standards of expected behaviour specifically in relation to sexual harassment.

The **Sexual Harassment Procedure** outlines how to appropriately manage allegations and incidents of sexual harassment in the workplace and the actions that ConsMin may take in the event that sexual harassment is found to have occurred. Any breaches of this policy may be subject to disciplinary action up to and including termination of employment.

The objective is to ensure that ConsMin provides an environment which fosters mutual respect and working relationships free of all forms of sexual harassment.

## 2. APPLICATION

This policy applies to all ConsMin employees, contractors, subcontractors, site visitors, consultants, customers, apprentices, trainees, work experience students and volunteers.

These expectations are not limited to the workplace. They apply both during and outside of normal working hours. It can apply to activities or conduct, and all people involved in such activities or conduct, regardless of whether it occurs or is undertaken in the course of employment.

This may include, but is not limited to, work-related events such as training, meetings, conferences, client functions, lunches or dinners and Christmas parties. This may additionally include, but is not limited to:

- Non-work-related functions where there a number of persons present from the work environment;
- Verbal communication either over the telephone or in person in the workplace and outside of it;
- Written communication including letters, notes, minutes of meetings and handover notes;
- Internal and external electronic communication such as email and messaging services; and
- Social media and networking forums including Facebook, LinkedIn, Instagram, Twitter and other forms of social media.

This policy does not create any binding obligations on ConsMin or contractual rights for

employees. However, the contents of this policy constitute lawful and reasonable directions that you are required to follow at all times.

ConsMin may vary this document from time to time at its discretion and ignorance will not be accepted as justification for a breach.

### **3. SEXUAL HARASSMENT**

Every person in the workplace is responsible for maintaining a working environment free from sexual harassment.

Sexual harassment includes but is not limited to the behaviours listed below, where the person acting in such a manner could be expected to anticipate that such behaviour would offend, humiliate, or intimidate the other person:

- Subjects another person to an unsolicited act of physical intimacy or makes an unwelcome sexual advance;
- Inappropriate or unwanted physical contact;
- Makes an unsolicited demand or request (whether directly or by implication) for sexual favours from the other person;
- Makes a remark with sexual connotations relating to the other person;
- Engages in any other unwelcome conduct of a sexual nature in relation to the other person; or
- Subjects another person to unwelcomed conduct of a sexual nature, including through conversations, action, or the display of material the other person finds discriminating or offensive.

and the person engaging in the conduct does so:

- With the intention of offending, humiliating or intimidating the other person; or
- In circumstances where a reasonable person would have anticipated the possibility that the other person would be offended, humiliated or intimidated by the conduct.

Sexual harassment is considered from the point of view of the person harassed and may occur regardless of any innocent intent on the part of the offender. Some forms of sexual conduct that are considered acceptable by some people may be considered offensive by others. It may be difficult for the offended person to object, especially if the harasser is in a position of authority.

The conduct does not need to be repeated to constitute sexual harassment.

Sexual harassment can take many different forms and may include physical contact, verbal comments, propositions, the display or sending of offensive material or other unwelcome behaviour.

Sexual harassment can involve a series of incidents, or it can be a one-off occurrence. While single or isolated occurrences of some behaviour may appear relatively minor, they may together constitute harassment if considered by the recipient as unwelcome or offensive and a reasonable person would have anticipated that the person would be offended, humiliated or intimidated.

Effect not intent, is the key to determining whether or not harassment has occurred.

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Sexual harassment can include:

- Displays of sexually graphic material including posters, pictures, calendars, cartoons, graffiti or messages left on boards or desks;
- E-mail messages, voicemail messages, text messages, screen savers (words and images), any material of a sexual nature downloaded from the internet, offensive telephone calls, or gifts;
- Deliberate, uninvited and unnecessary physical contact, such as patting, pinching, fondling or deliberately brushing against another body or attempts at kissing;
- Leering or staring at a person's body;
- Humour or sexualised jokes or comments, including insults, taunts and name-calling;
- Innuendo, including sexually provocative remarks, suggestive or derogatory comments about a person's physical appearance, inferences of sexual morality or tales of sexual performance;
- Constantly asking someone out, especially after prior refusal;
- Demands or requests for, or offers of sexual favours, gestures or body movements of a sexual or intimidating nature;
- Asking intrusive questions about someone's personal life including their sexual preferences or sexual activities; and
- Public displays of nudity.

Please note the above list is not exhaustive and some of the above behaviours may constitute criminal conduct.

Sexual harassment may also involve or concern, but is not limited to, the misuse of power or an unequal working relationship (for example, where it concerns an individual and their manager, supervisor, or someone else more senior than the individual within the organisation). There is a danger in such circumstances that apparent "consent" might be based on intimidation or fear. Care should be taken to ensure no breach of this policy in such a situation, particularly by the senior party in the relationship.

Sexual harassment is not behaviour which is based on mutual attraction, genuine consenting relationships, or friendship and respect. If the interaction is consensual, respectful, welcome and reciprocated it is not sexual harassment.

#### **4. MANAGEMENT OF UNACCEPTABLE BEHAVIOUR**

Employees that have any complaint or grievance in relation to alleged sexual harassment are encouraged to raise these under the Company's **Grievance Procedure** or **Whistleblower Policy**. All complaints will be taken seriously, investigated promptly, and will be treated confidentially and sympathetically. No employee will be penalised or disadvantaged as a result of raising any genuine concern or complaint.

In line with the **Employee Conduct & Corrective Action Standard**; appropriate action will be taken against any employee who, following an investigation, is found to have engaged in sexual harassment. As forementioned, this may involve disciplinary action up to and including termination of employment.

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#### 4.1. Criminal Behaviour

If serious allegations are made against an employee, such as sexual assault or rape, the matter may also be required to be reported to the police. This does not prevent the Company from undertaking an investigation or taking appropriate disciplinary action as it sees fit.

#### 4.2. Vilification or Victimization

Any person(s) that raises a grievance or complaint (complainant) or assists in any investigations relating to a grievance or complaint, in line with any applicable procedure, policy or standard must not be victimised or vilified by any other person(s).

Victimisation or vilification includes conduct which disadvantages a person because they have complained, or intend to complain about being sexually harassed, or any conduct which disadvantages a person who is assisting an investigation.

Victimisation and vilification can take any form, including making negative, unfounded or belittling comments, intimidation, exclusion from team or company activities, withholding opportunities, dismissing an employee or refusing a promotion, threatening a person, or limiting their access to benefits.

If an employee lodges a complaint pursuant to State or Federal legislation, it is unlawful to victimise that staff member or any person assisting with the complaint. There are penalties for individuals and corporations, which include fines and imprisonment.

Any person(s) that are reported to be victimising complainants or witnesses in relation to a complaint or investigation, will be subject to a formal investigation by the Company.

Management of the investigation and action, including disciplinary action (up to and including termination of employment), will be in line with the Company's **Employee Conduct & Corrective Action Standard**.

#### 4.3. Vexatious Claims

A vexatious complaint or grievance (or a series of many) are those that are found to be falsely made, not made in good faith, consist of malicious or misleading information and/or are being raised to cause detriment to a person.

ConsMin is conscious of the serious effect that a vexatious complaint or grievance can have on persons against whom such complaints or grievances are made.

Allegations of vexatious claims will be taken seriously by ConsMin. All investigations and any action taken against individuals, including disciplinary action (up to and including termination of employment), will be conducted in line with the Company's **Employee Conduct & Corrective Action Standard**.

All employees are obligated to report any information regarding potential vexatious claims as soon as practicable.

### 5. KEY ACCOUNTABILITIES

All ConsMin employees are expected to assist in establishing a supportive and diverse workplace where they are accountable and responsible for their own conduct in their employment and are familiar with and understand this policy, the **Code of Business Conduct** and associated standards and procedures and treat everyone with respect in an ethical and responsible manner.

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All employees have a responsibility to notify any suspected workplace misconduct including sexual harassment and ensure that:

- They are familiar with and comply to this policy and maintain acceptable standards of behaviour and conduct for the workplace at all times;
- Confidentiality is maintained as a complainant, respondent or witness through any investigation proceedings;
- They attend all training relating to sexual harassment as directed by ConsMin;
- They take all reasonable steps to ensure they are contributing to a workplace free of sexual harassment, including speaking to their Supervisor or People & Culture (P&C) about inappropriate behaviour and/or conduct they witness or become aware of;
- They inform any other person who is experiencing sexual harassment where they can get help and assistance; and
- They respond constructively to corrective action and attempt to improve behaviour and performance to acceptable levels at all times.

In addition to the above, all ConsMin supervisors must also ensure that they model appropriate behaviour and raise awareness about preventing bullying, sexual harassment, discrimination, victimisation and harassment in the workplace whilst actively endorsing the Company standards. .

It is the role of the supervisors to identify, prevent and address potential problems where practicable. Therefore, a supervisor who observes unlawful behaviours as outlined above has a duty to take action until the unlawful behaviour ceases. The duty exists even in the absence of a complaint.

This means a supervisor must ensure that:

- All employees reporting to them are familiar with and understand this policy, the **Code of Business Conduct** and the associated standards and procedures;
- They role model appropriate values and conduct;
- They maintain and monitor their direct working environment to ensure that acceptable standards of conduct are observed at all times;
- They respond promptly, sensitively and confidentially to all situations where inappropriate behaviour or conduct is exhibited or alleged to have occurred;
- All complaints received by them are treated seriously and addressed in accordance with the Company's Grievance Procedure as soon as possible;
- Ensure that no repercussions occur against the person(s) who make a complaint; and
- They liaise as necessary with P&C regarding any allegations relating to sexual harassment.

## 6. PROCESS

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### 6.1. For The Employee

Any person who believes that they are being sexually harassed or have witnessed another person being sexually harassed can seek the support and guidance of their supervisor or their P&C representative.

- If you feel comfortable in doing so, raise your concerns directly with the person involved to ensure that they are aware that you find their conduct offensive or hurtful and ask them to stop;
- If you don't feel comfortable doing this or have undertaken the steps above and the behaviour has not stopped you should contact your direct supervisor, if the concerns are with them, your next up manager i.e. your supervisor's manager;
- If you have completed this process and the behaviour has not stopped, you need to speak directly to P&C who can provide advice on the next steps; and
- If after contacting P&C, the behaviour continues you need to refer to the **Grievance Procedure** and **Whistleblower Policy** following the steps within the appropriate procedure.

In addition, employees can the Company's Employee Assistance Provider – Converge, who can be contacted on 1300 687 327 for free and confidential counselling.

### 6.2. For The Company

Once the Company has received a written allegation from an employee which outlines:

- The employee's name and position (the complainant);
- Name of person (or persons) alleged to have sexually harassed the complainant (the respondent);
- Details of the specific incident and any related incidents, including the date, time and place incidents are alleged to have taken place;
- The name/s of any employees who witnessed the event or related events;
- The effect of the incident on the employee's ability to perform their job;
- Names and positions of other employees who may have been subjected to similar harassment;
- What steps, if any, the employee has taken to try and stop the harassment; and
- Any other relevant information

The Company will review the allegations and during an investigation, will interview the complainant, the respondent and any witnesses to determine whether the alleged conduct occurred.

Upon conclusions of the investigation appropriate actions will be taken dependent on the following factors:

- The severity, frequency and pervasiveness of the conduct;
- Prior complaints made by the complainant;
- Prior complaints made against the respondent, and;

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- The quality of evidence.

During the investigation, P&C will maintain confidentiality to the extent possible. Interviews with the respondent and witnesses may require P&C to reveal the complainant’s name but P&C will take steps to ensure the complainant is protected from retaliation or adverse action during and after the investigation.

Any information relating to a sexual harassment complaint and investigation shall be maintained in secure and confidential files retained by the People & Culture department.

## 7. PROCEDURAL FAIRNESS

The Company supports natural justice by the minimum standard of fairness to be applied in any investigation. The substantive requirements of natural justice involve:

- Fully informing a person of any allegations made against them (this does not always extend to provide the name of the person(s) who made the allegation);
- Giving them the opportunity to state their case, provide an explanation or put forward a defence;
- Ensuring the proper investigation of the allegations occurs, that all parties are heard, and relevant submissions considered; and
- Ensuring that the decision-maker acts fairly and without bias.

## 8. SUPPORT

ConsMin will provide support for all employees’ party to any process or allegations as outlined above. The Company has a People & Culture department who can provide assistance and support throughout this process.

The Company also engages the services of an external Employee Assistance Program (EAP) who are able to assist employees with confidential support.

You can also refer to the Human Rights website for further information on resources and assistance: <https://humanrights.gov.au/our-work/sex-discrimination/list-support-services#WA>

## 9. APPEALS PROCESS

Should an employee disagree with the decision and/or the process with which a decision was undertaken, they should consult the **Grievance Procedure** and **Whistleblower Policy** for more information regarding the steps to lodge a grievance.

You can also raise the matter with a state or Commonwealth agency that has the power to resolve sexual harassment or victimisation matters, such as the Australian Human Rights Commission or the Fair Work Ombudsman.

If the matter is a criminal matter, you should also raise it with the police.

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**10. RELATED DOCUMENTS**

1. Grievance Procedure
2. Whistleblower Policy
3. Discrimination, Bullying & Harassment Standard
4. Employee Conduct & Corrective Action Standard
5. Code of Business Conduct
6. **Sexual Harassment Procedure**

**Disclaimer:** This policy does not cover every possible event or action. There will be circumstances where it is difficult to know what to do. In such cases, you are asked to exercise caution and common sense and comply with the underlying principles of this policy. If you have any questions or doubts about this policy, please direct them to your supervisor, manager or People & Culture.

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