

	Document Name	Sexual Harassment Policy
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	Comment	It is the responsibility of the recipient to identify/control superseded documents

INTRODUCTION

Purpose

GEM College is committed to providing working, training and learning environments that are safe, respectful and free from sexual harassment and related unlawful conduct.

This policy establishes GEM College's approach to preventing and responding to sexual harassment, sex-based harassment, conduct that creates a hostile environment on the ground of sex, and related victimisation. It supports the safety and wellbeing of students, staff and other persons who engage with GEM College.

Scope

This policy applies to:

- Prospective, current and former students;
- Employees, contractors and governing persons;
- Third parties delivering services on behalf of GEM College;
- Persons undertaking work placement or other community-based learning;
- Visitors, clients, volunteers and other persons participating in GEM College activities; and
- Any person whose conduct may affect a GEM College working, training or learning environment.

The policy applies to conduct occurring:

- At GEM College premises;
- During training, assessment, work placements, excursions, meetings and work-related or College-related events;
- Through email, telephone, learning platforms, social media and other digital communications;
- When working or studying remotely; and
- Outside College premises or normal operating hours where the conduct has a relevant connection with GEM College, its services or its working or learning environment.

Legislative and regulatory framework

This policy supports GEM College's obligations under the Sex Discrimination Act 1984, including the positive duty to take reasonable and proportionate measures to eliminate specified unlawful conduct as far as possible.

It also supports applicable requirements under:

- The Fair Work Act 2009;
- Commonwealth, state and territory work health and safety legislation;
- Applicable anti-discrimination and equal opportunity legislation;
- Child-safety and mandatory-reporting legislation; and
- Standards 2.5, 2.6, 2.7 and 4.3 of the National Vocational Education and Training Regulator (Outcome Standards for Registered Training Organisations) Instrument 2025.

Reports and complaints made under this policy are managed in conjunction with GEM College's Feedback, Complaints and Appeals Policy and associated process. Immediate safety, employment, student-conduct, child-safety or external-reporting action may also be taken under other applicable policies, processes or legal requirements.

DISCUSSION

Sexual harassment and related unlawful conduct can cause serious harm to individuals and undermine the safety, integrity and effectiveness of working and learning environments. GEM College therefore places primary emphasis on prevention, early intervention, accessible reporting and fair, appropriate responses.

1. Prohibited conduct

GEM College prohibits sexual harassment and related unlawful conduct.

Sexual harassment occurs where a person:

- Makes an unwelcome sexual advance;
- Makes an unwelcome request for sexual favours; or
- Engages in other unwelcome conduct of a sexual nature,
- in circumstances where a reasonable person, having regard to all the circumstances, would anticipate that the person subjected to the conduct might be offended, humiliated or intimidated.

Conduct may constitute sexual harassment whether or not the person responsible intended to offend, humiliate or intimidate. A single incident may be sufficient.

Sexual harassment may include:

- Unwanted touching, kissing, embracing or other physical contact;
- Sexual comments, jokes, questions or gestures;
- Unwelcome comments about a person's appearance, body, sexuality, relationships or private life;
- Repeated or unwelcome invitations, requests for dates or sexual advances;
- Displaying or distributing sexual images, messages or material;
- Sending sexual or sexually suggestive communications;
- Sexual conduct occurring through social media, messaging services or online learning platforms;
- Intrusive staring, leering or sexually suggestive behaviour;
- Offering a benefit in exchange for sexual conduct;
- Threatening a disadvantage because a sexual request is refused; or
- Any other unwelcome conduct of a sexual nature that could reasonably be expected to offend, humiliate or intimidate.

Mutually consensual relationships or interactions are not ordinarily sexual harassment. However, consent must be freely given and may be withdrawn at any time. A power imbalance, dependency, age difference or authority over employment, enrolment, assessment, progression or access to services may affect whether conduct is genuinely welcome.

Sex-based harassment is unwelcome conduct of a demeaning nature directed at a person because of their sex, or a characteristic generally associated with people of that sex, where a reasonable person would anticipate that the person might be offended, humiliated or intimidated.

Conduct that creates or contributes to a hostile working or learning environment on the ground of sex is also prohibited. This may include sexual or sex-based conduct that is not directed at one particular person but makes the environment intimidating, offensive or humiliating.

Sexual assault and other sexual offences are criminal matters and may be reported to police. GEM College will:

- Consider both existing and emerging risks;
- Give priority to the safety, wellbeing and educational interests of VET students;
- Assign responsibility for each material risk;
- Apply controls proportionate to the level of risk;
- Escalate risks that exceed delegated authority or accepted tolerance; and
- Review whether controls remain effective.

2. Prevention and positive duty

GEM College will take reasonable and proportionate measures to prevent sexual harassment and related unlawful conduct as far as possible.

Preventive measures may include:

- Leadership commitment and accountable decision-making;
- Identification and assessment of relevant risks;
- Appropriate behavioural standards and codes of conduct;
- Information, induction and training for staff and students;
- Accessible reporting and support arrangements;
- Appropriate supervision of working and learning environments;
- Controls addressing online delivery, work placements, isolated work and other higher-risk settings;
- Appropriate management of third parties;
- Early intervention where inappropriate conduct is observed or reported;
- Monitoring workplace and learning-environment culture; and
- Review of incidents, reports, feedback and control effectiveness.

Risk controls must be proportionate to the nature of GEM College's operations, its workforce and student cohorts, the locations and modes of delivery, and any identified vulnerability or power imbalance.

Where students aged under 18 participate in training or assessment, GEM College must identify and manage risks to their safety and wellbeing in accordance with applicable child-safety requirements and Standard 4.3 of the Outcome Standards.

3. Responsibilities and expected conduct

All persons covered by this policy must:

- Behave respectfully and professionally;
- Refrain from sexual harassment and related unlawful conduct;
- Comply with reasonable directions and preventive controls;
- Avoid victimising or retaliating against any person;
- Respect privacy and confidentiality;
- Cooperate honestly with authorised inquiries or investigations; and
- Report immediate safety concerns through the appropriate channel.

Governing persons and managers are responsible for promoting a respectful culture, monitoring relevant risks, responding appropriately to observed or reported conduct and ensuring that preventive and corrective actions are implemented.

Managers must not ignore, minimise or conceal suspected sexual harassment or related unlawful conduct. They must seek appropriate advice and escalate matters where required by this policy, another GEM College requirement or applicable law.

Staff involved in receiving or managing a report must act within their authority, maintain appropriate boundaries and avoid making premature findings or promises about outcomes.

4. Reporting and support

A person who experiences, witnesses or becomes aware of possible sexual harassment or related unlawful conduct is encouraged to seek information, support or assistance through GEM College's published reporting channels.

A report may be made by the person affected, a witness or another person with relevant information. Reports may concern conduct by GEM College, a staff member, contractor, student, visitor or third party.

A person is not required to confront the person whose conduct is of concern before seeking assistance or making a report. Informal resolution or mediation must not be presented as compulsory.

GEM College will provide reasonable assistance to enable a person to make a report or participate in a related process. A person may be accompanied or assisted by a support person or representative, subject to reasonable conditions necessary to preserve safety, fairness and process integrity.

Available support may include:

- Information about reporting and resolution options;
- Assistance to access wellbeing or counselling services;
- Reasonable adjustments;
- Safety planning;
- Changes to contact, attendance, work or training arrangements; and
- Information about relevant external services.

Where immediate danger exists, the person should contact emergency services on 000.

5. Immediate safety and protective action

GEM College will assess whether immediate or interim action is required to protect the safety and wellbeing of affected persons or preserve the integrity of a response process.

Interim measures may include:

- Separating relevant parties;
- Changing reporting, supervision, work, class or assessment arrangements;
- Restricting contact or access to premises or systems;
- Providing alternative training or participation arrangements;
- Increasing supervision;
- Preserving relevant records or evidence; or
- Referring a matter to an appropriate external authority.

Interim action is precautionary and does not constitute a finding that the alleged conduct occurred. Measures must be proportionate, regularly reviewed and implemented with appropriate regard for the rights and safety of all affected persons.

6. Managing reports and complaints

Reports and complaints must be taken seriously and managed promptly, sensitively, impartially and in accordance with procedural fairness.

The response will be determined by the circumstances, including:

- The wishes and wellbeing of the person affected;
- The nature and seriousness of the reported conduct;
- Immediate or continuing safety risks;
- The age and vulnerability of persons involved;
- GEM College's legal, regulatory and contractual obligations;
- Whether the conduct may constitute a criminal offence;
- Whether other persons may be at risk; and
- The availability and suitability of informal or formal resolution options.

The preferences of the person affected will be considered and respected as far as reasonably possible. However, GEM College may need to take action without, or beyond, that person's consent where necessary to meet safety, child-protection, employment, regulatory or other legal obligations, or to protect other persons from a material risk.

Informal resolution may be considered only where it is safe, appropriate and voluntarily accepted by the affected person. Mediation is not appropriate in every sexual harassment matter and must not be used where it may expose a person to further harm, reinforce a significant power imbalance or compromise another required response.

Where a formal complaint or investigation is required, the applicable Feedback, Complaints and Appeals Process or authorised workplace process must be followed. The person who is the subject of an allegation must be informed of the substance of the allegation and given a reasonable opportunity to respond before an adverse finding is made.

Outcomes will depend on the circumstances and may include education, counselling, changes to arrangements, corrective action, disciplinary action, termination of an arrangement or referral to an external authority. Outcomes must be authorised, proportionate and consistent with applicable policies, contracts and legal requirements.

7. Confidentiality privacy and records

Information relating to sexual harassment must be handled sensitively and disclosed only to persons who need the information to provide support, assess risk, manage the matter, make an authorised decision or meet a legal obligation.

Absolute confidentiality cannot be guaranteed. A person receiving a report must not promise that no information will be disclosed or that no action will be taken.

All persons involved must respect the privacy of others and must not improperly disclose, publish or use information obtained through a report, complaint or investigation.

GEM College will create and retain sufficient records to demonstrate:

- The nature of the matter reported;
- Any identified safety or wellbeing risks;
- Information considered;
- Interim or protective measures;
- Decisions and reasons;
- Communications with relevant parties;
- Outcomes and corrective actions; and
- Follow-up or monitoring undertaken.

Records must be stored securely, accessed only by authorised persons and retained and disposed of in accordance with applicable privacy, employment, student-record and records-management requirements.

8. Victimisation and retaliation

GEM College prohibits victimisation and retaliation against a person because they:

- Made or proposed to make a report or complaint;
- Sought information, support or assistance;
- Participated in a complaint, inquiry or investigation;
- Provided information or evidence;
- Supported another person; or
- Exercised a relevant workplace, education or legal right.

Victimisation may include intimidation, threats, exclusion, adverse treatment, interference with employment or study, withholding opportunities or other detrimental conduct.

A person who experiences or becomes aware of possible victimisation should report it promptly. Victimisation may be managed as a separate complaint and may result in corrective or disciplinary action.

A report made honestly and in good faith will not result in adverse action merely because it is not substantiated. Knowingly providing false or misleading information may, however, be addressed under applicable conduct requirements.

9. External reporting and assistance

Nothing in this policy prevents a person from obtaining independent advice, support or assistance or making a report to an appropriate external body.

Depending on the circumstances, external bodies may include:

- Police or emergency services;
- The Australian Human Rights Commission;
- The Fair Work Commission;
- The Fair Work Ombudsman;
- The relevant state or territory anti-discrimination or equal opportunity body;
- The relevant work health and safety regulator;
- A child-protection authority;
- The Australian Skills Quality Authority; or
- Another regulatory, legal, union, advocacy or support service.

An external report does not automatically remove GEM College's responsibility to assess and manage continuing safety, wellbeing, employment or educational risks. GEM College will determine what internal action can appropriately continue without interfering with an external investigation or legal process.

10. Monitoring and continuous improvement

GEM College will monitor the effectiveness of its preventive and response arrangements using information that may include:

- Reports and complaints;
- De-identified incident and trend information;
- Student and staff feedback;
- Risk assessments;
- Training participation;
- Audit and review findings;
- Information received from third parties or regulators; and
- The effectiveness of corrective and preventive actions.

Information must be analysed in a manner that protects privacy and does not unnecessarily identify individuals.

Where monitoring identifies a systemic issue, emerging risk or ineffective control, GEM College must implement and monitor appropriate corrective or preventive action. Governing persons must receive sufficient information to oversee material risks and the effectiveness of GEM College's response.

SUMMARY

GEM College is committed to preventing sexual harassment and related unlawful conduct and to responding appropriately when concerns arise. Prevention is an ongoing organisational responsibility and is not limited to responding after a person makes a formal complaint.

In particular:

- Sexual harassment, sex-based harassment, hostile environments on the ground of sex and victimisation are prohibited;
- Preventive measures must reflect GEM College's risks, operations and student cohorts;
- Staff, students, contractors and third parties must behave respectfully and comply with applicable controls;
- A person is not required to confront the alleged harasser or attempt informal resolution;
- Reports must be accessible and supported;
- Immediate and interim measures may be used to protect safety and wellbeing;
- Reports and complaints must be managed sensitively, fairly and without predetermined conclusions;
- A person's preferences will be considered, but GEM College may act where safety or legal obligations require it;
- Confidentiality must be respected, but absolute confidentiality cannot be promised;
- Victimisation and retaliation are prohibited;
- Access to external assistance and reporting remains available; and
- Reports, risks and outcomes must inform prevention and continuous improvement.



Chief Executive Officer - Monique McCloskey