

# SEXUAL HARASSMENT POLICY

Policy number	1004	Version	1
Drafted by	Fraser Baxter	Approved by	08.09.2020
		Committee Of	
		Management on	
Responsible person	Secretary	Scheduled review date	07.09.2021

## INTRODUCTION

Brain Injury Matters will fiercely defend the right of every employee and volunteer to perform their work without being subjected to sexual harassment. Every employee and volunteer is responsible for providing an environment that is supportive of this aim. Everyone must treat everyone else with respect and must aim to act as an example for good behaviour in the workplace.

It is the obligation and responsibility of every employee and volunteer to ensure that the workplace is free from sexual harassment. Everyone working/volunteering at Brain Injury Matters is responsible for the care and protection of our people and for reporting information about suspected sexual harassment.

Brain Injury Matters is fully committed to its obligation to prevent and eliminate sexual harassment in the workplace.

## PURPOSE

The purpose of this document is to outline Brain Injury Matters position on sexual harassment and to document the process which is to be followed should any grievances arise.

## DEFINITIONS

*Sexual harassment* means any unwelcome sexual advance, unwelcome request for sexual favours, or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated or intimidated, and where that reaction is reasonable in the circumstances. Examples of sexual harassment include, but are not limited to,

- staring or leering
- unnecessary familiarity, such as deliberately brushing up against you or unwelcome touching
- suggestive comments or jokes
- insults or taunts of a sexual nature
- intrusive questions or statements about your private life
- displaying posters, magazines or screen savers of a sexual nature
- sending sexually explicit emails or text messages
- inappropriate advances on social networking sites
- accessing sexually explicit internet sites
- requests for sex or repeated unwanted requests to go out on dates

- behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications

Behaviour that is based on mutual attraction, friendship and respect is not sexual harassment.

## POLICY

Brain Injury Matters will not tolerate sexual harassment under any circumstances. Responsibility lies with every manager, committee of management member, and employee/volunteer to ensure that sexual harassment does not occur.

This policy applies to conduct that takes place in any work-related context, including conferences, work functions, social events and business trips.

No employee or volunteer at any level should subject any other employee, volunteer or visitor to any form of sexual harassment.

A breach of this policy will result in disciplinary action, up to and including termination of employment/revoking of membership.

Brain Injury Matters strongly encourages any employee or volunteer who feels they have been sexually harassed to take immediate action. If an employee or volunteer feels comfortable in doing so, they can raise the issue with the person directly with a view to resolving the issue by discussion. The employee or volunteer should identify the harassing behaviour, explain that the behaviour is unwelcome and offensive and ask that the behaviour stops.

However, given the seriousness of sexual harassment, we recommend that this discussion happens in consultation with the relevant manager or committee of management member.

Alternatively, or in addition, they may report the behaviour in accordance with the relevant procedure. Once a report is made the organisation will determine how the report should be dealt with in accordance with its obligations and this policy.

Any reports of sexual harassment will be treated seriously and promptly with sensitivity. Such reports will be treated as completely confidential but the person the subject of the complaint must be notified under the rules of natural justice. The organisation will protect all those involved in the process from victimisation.

Complainants have the right to determine how to have a complaint treated, to have support or representation throughout the process, and the option to discontinue a complaint at any stage of the process.

The alleged harasser also has the right to have support or representation during any investigation, as well as the right to respond fully to any formal allegations made. There will be no presumptions of guilt and no determination made until a full investigation has been completed.

No employee or volunteer will be treated unfairly as a result of rejecting unwanted advances. Disciplinary action may be taken against anyone who victimises or retaliates against a person who has complained of sexual harassment, or against any employee or volunteer who has been alleged to be a harasser.

All employees and volunteers have the right to seek the assistance of the relevant tribunal or legislative body to assist them in the resolution of any concerns.

Managers or committee of management members who fail to take appropriate corrective action when aware of harassment of a person will be subject to disciplinary action.

## **AUTHORISATION**

A handwritten signature in black ink, appearing to read 'V. Giddings', written in a cursive style.

Virginia Giddings  
Executive Secretary  
Brain Injury Matters  
10/09/2020

# SEXUAL HARASSMENT PROCEDURES

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## RESPONSIBILITIES

It is the responsibility of the committee of management and management to ensure that:

- they understand and are committed to the rights and entitlements of all employees and volunteers to attend work and perform their duties, without fear of being sexually harassed in any form;
- they understand what constitutes an act of sexual harassment;
- all reasonable steps are made to eliminate sexual harassment;
- all employees and volunteers are regularly made aware of their obligations in relation to providing a workplace free from sexual harassment;
- they provide an environment which discourages harassment and victimisation and set an example by their own behaviour;
- they treat all complaints seriously and confidentially; and
- they take immediate and appropriate corrective action if they become aware of any offensive action or illegal behaviour.

It is the responsibility of management and the committee of management to ensure that:

- policies and procedures are regularly reviewed and (if necessary) amended;
- policies and procedures are complied with;
- regular guidance and education is provided to employees and volunteers regarding sexual harassment and inappropriate behaviour in the workplace;
- managers and committee of management members are aware of their obligations and responsibilities in relation to sexual harassment, and the rights and entitlements of their employees and volunteers;
- ongoing support and guidance is provided to all employees and volunteers in relation to the prevention of sexual harassment.

## PROCEDURES

### Complaint Process

Sexual harassment can occur at any level of the organisation, can be experienced by both men and women and may involve a co-worker, volunteer or manager. Lack of intent is no defense in sexual harassment cases.

Employees or volunteers who believe they are the subject of sexual harassment should take firm, positive and prompt action.

Where possible, the employee or volunteer should make the perceived harasser(s) aware that they find their behaviour offensive, unwelcome, unacceptable, and that it needs to stop immediately.

If the behaviour continues, or if the employee or volunteer feels unable to speak to the person(s) directly, they should contact their Manager or a committee of management member.

**The committee of management member /manager will respond to the claimant within 10 days** and provide support and ascertain the nature of the complaint and the wishes of the complainant.

## **Informal Intervention**

The Manager/committee of management member will explain the employee or volunteer's rights and responsibilities under organisation's policy, procedures and Equal Employment Opportunity or anti-discrimination legislation.

Informal intervention may be undertaken through a process of mediation or conciliation. During informal intervention the alleged harasser will be made aware of the allegations being made against them and given the right to respond.

This procedure will be complete when the complainant and the respondent come to an agreement on the procedure to be followed.

## **Formal Complaints Procedure**

The committee of management member / manager may be obliged to carry out a formal investigation in relation to a complaint of sexual harassment.

The formal procedure will be coordinated by the committee of management member/ manager, who will be guided by the committee of management.

Formal investigations may be conducted internally (by a manager or committee of management member) or by an external investigator.

An investigation involves collecting information about the complaint and then making a finding (on the balance of probabilities) based on the available information as to whether or not the alleged behaviour occurred. Once a finding is made, the investigator will make recommendations about resolving the complaint or implementing disciplinary action (including and up to termination of employment/revoking of membership).

The investigator may need to interview the parties involved (which may include the complainant, the respondent, and any witnesses) to obtain information regarding the complaint. The investigator will comprehensively and accurately document all information obtained during the interviews including the parties involved, timing, location, and nature of conduct complained against.

If the investigator considers it appropriate for the safe and efficient conduct of an investigation, workplace participants may be stood down from work/volunteering or provided with alternative duties during an investigation in which case they will be paid their normal pay during any such period.

Throughout the investigation process, all parties involved in the investigation will be regularly kept informed about the investigation.

Records are to be kept and filed in a confidential and secure place. These records should be kept for a period of seven years. Under no circumstances will records be placed on the complainant's personnel file.

On the basis of the findings, possible outcomes of the investigation may include, but will not be limited to, any combination of the following:

- Counselling;
- Disciplinary action against the harasser (e.g. demotion, transfer, suspension, probation or dismissal);
- Official warnings that are noted in the respondent's personnel/volunteer file;
- Disciplinary action against the person who complained if there is strong evidence that the complaint was vexatious or malicious;
- Formal apologies and undertaking that the behaviour will cease;
- Conciliation/mediation conducted by an impartial third party where the parties to the complaint agree to a mutually acceptable resolution;
- Reimbursing any costs associated with the harassment;
- Re-crediting any leave taken as a result of the harassment.

On completion of the investigation, all parties will be informed about the investigation findings and the outcome of the investigation – as appropriate and in line with confidentiality obligations.

Following an investigation concerning a sexual harassment complaint (irrespective of the findings), the Manager/Committee of Management member will:

- consult with the parties involved to monitor the situation and their wellbeing; and
- educate and remind all employees and volunteers of their obligations and responsibilities in relation to providing a workplace free from harassment.

If there has been any substantiated victimisation, disciplinary procedures will be followed.

## **Procedures for Dealing with Criminal Conduct**

Some forms of sexual harassment (e.g. sexual assault, stalking, indecent exposure, physical molestation, obscene phone calls) may constitute criminal conduct.

Such complaints should be dealt with by the relevant authorities (such as the police) as part of the criminal justice system.

## **Appeals Procedure**

Where adverse findings are reached, the person concerned can appeal. The appeal must be in writing and sent to the President of BIM within 5 working days of the decision being made. The President will consider content, consult with all parties and make a decision within 15 working days. This decision is final.

Any party (the victim or the accused if the allegations are not substantiated) to the process may require professional support to deal with the impact on them. The cost of this professional support (for example the Employee Assistance Program) will be borne by BIM for a reasonable amount of time.

## AUTHORISATION

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Virginia Giddings  
Executive Secretary  
Brain Injury Matters  
10/09/2020