

AUSTRALIAN SERVICES UNION

LOCAL GOVERNMENT & ENERGY DELEGATES CONFERENCE 2020

EBA MODEL CLAUSE - SEXUAL HARASSMENT AND GENDERED VIOLENCE

Statement of Employer Recognition and Commitment on Sexual Harassment & Gendered Violence (GV)

1. *The employer recognises that:*
 - 1.1. sexual harassment and GV are serious health and safety hazards;
 - 1.2. no worker should experience sexual harassment and GV at work.
2. The employer has an obligation to provide a working environment that is safe and without risk to health. This obligation includes a requirement to take all reasonably practicable steps to remove sexual harassment and GV from this workplace.

Definition of Sexual Harassment & GV

3. Sexual harassment and gendered violence is any behaviour, action, system or structure that causes physical, sexual, psychological or economic harm to a worker because of their sex, gender, sexual orientation or because they do not adhere to dominant gender stereotypes or socially prescribed gender roles.
4. *Gendered violence includes:*
 - 4.1. violence experienced by women because they are women;
 - 4.2. violence experienced by a person because they identify as LGBTIQ;
 - 4.3. violence experienced by a person because they don't conform to socially prescribed gender roles or dominant definitions of masculinity or femininity;
 - 4.4. witnessing sexual harassment and gendered violence directed at someone else, such as a co-worker
5. Examples of sexual harassment and gendered violence include (but are not limited to) behaviours and actions such as:
 - stalking
 - intimidation or threats
 - verbal abuse
 - ostracism or exclusion
 - rude gestures
 - offensive language and imagery
 - put downs, innuendo/ insinuations
 - being undermined in your role or position
 - sexual harassment
 - sexual assault and rape.

Measures to address Sexual Harassment & GV at the workplace

6. Gender inequalities, sexism, homophobia and transphobia at work drive sexual harassment and gendered violence at work. Sexual harassment and gendered violence can be perpetrated by those who are strangers/ external to the workplace, and those who are internal to the workplace - clients (including inmates, patients, students, and customers), work peers and managers.
7. The employer will therefore take positive steps to:
 - 7.1. eliminate gender inequalities that exist in the workplace;
 - 7.2. overcome gender segregation where it exists;
 - 7.3. eradicate cultures of sexism and misogyny;
 - 7.4. eradicate homophobia and transphobia; and
 - 7.5. promote the benefits of gender equality and workplaces that are inclusive of workers from a range of backgrounds, experiences and identities.

Development of an Action Plan

8. Addressing the factors that underpin sexual harassment and gendered violence will assist in preventing and eliminating that violence.

9. *The employer therefore agrees to put an action plan in place, in consultation with its employees and the relevant union/s, within X months of the coming in to effect of this agreement which is designed to:*
 - 9.1. eliminate gender inequalities that exist in the workplace;
 - 9.2. overcomes gender segregation where it exists;
 - 9.3. eradicate cultures of sexism and misogyny; eradicate homophobia and transphobia;
 - 9.4. promote the benefits of gender equality and workplaces that are inclusive of workers from a range of backgrounds, experiences and identities;
 - 9.5. ensure that job design and systems of work do not cause or increase the risk of sexual harassment and gendered violence or perpetuate gender inequality.
10. The action plan will give specific attention to vulnerable workers including those that are: engaged in service delivery and care based roles; are casual, contract, visa workers or who are otherwise insecurely engaged; identify as LGBTQIQ; are Aboriginal or Torres Strait Islander; are migrants or culturally and linguistically diverse or have a disability.
11. The action plan will assess and address the risk of exposure to sexual harassment and gendered violence:
 - 11.1. in the work environment;
 - 11.2. the way work is designed and managed; and
 - 11.3. in workplace policies and procedures and practices.

Assessment of Action Plan Implementation

12. Progress on the implementation of this action plan will be a standing item for discussion at the Consultative Committee and the Health and Safety Committee.

Allocation of resources to deal with Sexual Harassment & GV

13. *The employer will:*

Risk assessment

- 13.1. assess the sexual harassment and gendered violence risks in the workplace and will develop a strategy to remove these risks in conjunction with workers and the relevant union/s;

Development of guidelines

- 13.2. develop and publish workplace guidelines on solutions to overcome sexual harassment and gendered violence in the workplace, to address sexual harassment and gendered violence risks and the incidence of sexual harassment and gendered violence in this workplace within X months of the coming in to effect of this agreement. These guidelines will be consistent with this clause and will be produced in consultation with the workers and relevant union/s;

Data collection and reporting

- 13.3. ensure that data, including incident reports, pertaining to sexual harassment and gendered violence, are maintained and recorded in order to assist in and identify instances of sexual harassment and gendered violence and to review progress towards achieving a sexual harassment and gendered violence free workplace. This data will be made available to the consultative committee and health and safety committee. The relevant union/s will also have access to this data on request;

GV contact persons

- 13.4. identify sexual harassment and gendered violence contact persons throughout the organisation, in consultation with workers and the relevant union/s. These persons may include managers, team leaders, union contacts and HSRs. All sexual harassment and gendered violence contact persons will receive training on: the operation of this clause; understanding sexual harassment and gendered violence as a serious workplace health and safety issue and; how to respond to incidences of sexual harassment and gendered violence;

Delegate and HSR training leave

- 13.5. give paid leave away from work at least annually, for union delegates and HSRs, to attend training, delivered by VTHC or the relevant union/s, on sexual harassment and gendered violence at work, how to respond to and prevent it, and the operation of this clause;

Senior leadership training

- 13.6. facilitate training by the senior leadership team, about the operation of this clause; understanding sexual harassment and gendered violence as a serious workplace health and safety issue, and how to achieve gender equality and create workplaces that are inclusive of workers from a range of backgrounds, experiences and identities;

Worker training and inductions

- 13.7. provide training and information to all workers on the organisation's commitment to eradicating sexual harassment and gendered violence from the workplace and the operation of this clause; and

- 13.8. ensure all new workers receive training and information at their induction regarding the organisation's commitment to achieving a workplace free of sexual harassment and gendered violence, the expectations of all workers to refrain from behaviours and actions that constitute sexual harassment and gendered violence and the operation of this clause.

Employer Commitments - Response to Sexual Harassment & GV

No adverse action

14. No adverse action will be taken against a worker who reports experiencing or witnessing sexual harassment and gendered violence or whose attendance or performance suffers as a result of them experiencing or witnessing sexual harassment and gendered violence at work.

Treatment of GV risks or report

15. *Any employer action to address sexual harassment and gendered violence risks or to respond to reports or incidences of gendered violence will:*

- Effectively and efficiently deal with instances of sexual harassment and gendered violence without blaming or persecuting the victim; address the behaviours and actions that constitute sexual harassment and gendered violence as well as the stereotypes/assumptions, cultures and system of work that foster sexual harassment and gendered violence.
- Reinforce that any perpetrator is responsible for their behaviour and the choices they make.
- Ensure that reporting and investigative processes are efficient, confidential and do not penalise or cause further harm to employees who have experienced sexual harassment and gendered violence.
- Ensure that any investigative processes apply the principles of natural justice and procedural fairness and do not penalise or cause further harm to employees who have experienced sexual harassment and gendered violence.
- Allow any worker involved in any instances of sexual harassment and gendered violence (including victim/survivor, witness or perpetrator) to have access to a representative of their choosing in any process associated with these instances
- Not excuse the perpetrators violent behaviour or down play the significance and seriousness of the perpetrators inappropriate actions
- A worker, or group of workers, who experience or witness sexual harassment and gendered violence may, if they choose, raise this issue as a dispute in accordance with clause X of this agreement

Support for workers who experience Sexual Harassment & GV

16. *The employer will:*

Access to support and counselling

- 16.1. ensure those who experience or witness sexual harassment and gendered violence at work receive appropriate support and access to appropriately qualified counselling and other support services. Support includes access to a representative to assist in this process and paid time to deal with the impact of sexual harassment and gendered violence;
- 16.2. provide access to support services to those who perpetrate sexual harassment and gendered violence in order to assist them to change their behaviour; and
- 16.3. make information regarding counselling and support services readily available throughout the workplace.

Operation of this clause

17. Policies and procedures within the workplace shall be reviewed to ensure they are consistent with the provisions of this clause.
18. Nothing in this clause overrides any obligation the employer may have with respect to other clauses within this agreement or under any Act or Regulation.
19. Nothing in this clause overrides any rights a worker may have with respect to other clauses within this agreement or under any Act or Regulation.



By your side