INTRODUCTION

Legal Responsibilities


Section 161 of the WA legislation states that an employer is vicariously liable for actions which contravene the Act committed by employees during the course of their employment.

The liability of a school in this regard is extensive as legal obligations are also held to students. In a school, sexual harassment must not occur between:

- employees (including independent contractors);
- students and employees (e.g. teachers);
- employees and the school management.

DEFINITION

Sexual harassment covers a range of unwelcome, unsolicited and non-reciprocated behaviour. This may constitute deliberate or unintentional communication – verbal or otherwise, or physical contact of a sexual nature.

Behaviours between equals which involve choice and consent such as flirtation, friendship and sexual attraction are easily distinguishable from unwelcome activity and do not constitute sexual harassment.

Unwelcome sexual conduct occurs when:

- the conduct interferes with another employee’s performance;
- the conduct creates an intimidating, hostile or offensive work environment;
- acceptance or rejection of the conduct is used to make employment decisions.

SEXUAL HARASSMENT WILL NOT BE TOLERATED BY THE SCHOOL IN ANY FORM. EMPLOYEES OR STUDENTS ENGAGING IN SUCH BEHAVIOUR WILL BE SUBJECT TO DISCIPLINARY PROCEEDINGS.

COMPLAINTS PROCEDURE

Employees who consider that they are being subjected to sexual harassment should report the matter immediately to the School Counsellor, Deputy Principal, the Director of Finance and Administration, Dean of Students, Dean of Administration, Head of Boarding, Head of the Junior School or the Principal. The person making the report should have all events documented and give an indication of the feelings experienced at the time of the alleged harassment. The person to whom the report is made will ensure that all details are kept confidential except those raised with the person or persons causing the harassment when a subsequent investigation is conducted. The person making the report should clearly identify what action she or he considers is necessary to rectify the situation.
People making reports are assured that their complaints will not generate adverse job consequences.

A more detailed Complaints Procedure for staff is available on the staff section of the school's document server.