

Sexual Harassment and Sexual Assault Policy and Personal Safety Officer Guide

1 Purpose

The Liberal National Party (the **Party**) is committed to high standards of conduct in all of its business activities, and to promoting and supporting a culture of honest and ethical behaviour, compliance and good corporate governance.

This policy sets out the Party's commitment to preventing Sexual Harassment and Sexual Assault in connection to the Party and its members where it is reasonably practicable to do so.

It is the responsibility of the Party's Personal Safety Officers (**PSO**) to confidentially and sensitively receive Complaints from Complainants, and provide them with support and advice about their options for resolution. How a Complaint is assessed and managed can differ depending on several factors, such as:

- (a) the nature and severity of the Complaint;
- (b) the approach that the Complainant would like to take in resolving the Complaint; and
- (c) the degree of consent provided by the Complainant as to what information is provided to others regarding the Complaint.

The guidelines within this policy provide the Party's two PSOs with the information and tools necessary to fulfil the duties of the PSO role in line with the Party's Constitution. This policy also aims to ensure Complaints are handled fairly with confidentiality maintained in all aspects where it is appropriate to do so.

This policy should be used by the PSO where there is a complaint of Sexual Harassment or Sexual Assault in any circumstances where there is a connection to the Party and its members.

Complaints made pursuant to this Guide shall be dealt with as swiftly and efficiently as possible.

2 Scope

This policy covers and applies to all Party members.

3 Definitions

In this policy, the following definitions apply:

1. **Accused** means an individual member of the Party who has allegedly engaged in the behaviour warranting the Complaint.
2. **Complaint** means a report or disclosure of alleged Sexual Harassment or alleged Sexual Assault concerning a member of the Party against another member of the Party.
3. **Complainant** means a person (who may or may not be a member of the Party) who brings a complaint of alleged Sexual Harassment or alleged Sexual Assault to the attention of a PSO about a member of the Party
4. **General Counsel** means the Party's Honorary Legal Advisor, the Party's Deputy Honorary Legal Advisor and any other legal counsel engaged by the Party.
5. **Member** means a financial or unfinancial member of the Party.
6. **Party** means the Liberal National Party of Queensland.

7. **Sexual Assault** has the same meaning as the offence of ‘sexual assaults’ in the *Criminal Code Act 1899* (Qld) as amended from time to time.
8. **Sexual Harassment** includes sexually inappropriate conduct and means any unwelcome sexual advance, any unwelcome request for sexual favours and any unwelcome conduct of a sexual nature. To be Sexual Harassment, it must be reasonable to expect that in the situation, there is a possibility that the behaviour would offend, humiliate, or intimidate the other person.
9. **State Executive** means those members of the Party specified in clause L.1 of the Party’s Constitution.

4 Making a Complaint

An individual who wishes to make a Complaint about Sexual Harassment or Sexual Assault in relation to a member of the Party may do so by contacting one of the Party’s PSOs.

The Party’s PSOs and their contact details are as follows:

Teresa Gambaro	TBA	pso1@lnp.org.au
Daniel Hobbs	0400 531 837	pso2@lnp.org.au

A Complaint should preferably be in writing, and provide the details of the Complainant and the alleged conduct about which the Complaint is made.

The Complaint process under this policy will take precedence over any other process of the Party that may be applicable, including those processes set out in:

- (a) the Liberal Party of Australia’s National Code of Conduct;
- (b) the Liberal Party of Australia’s Complaints and Disputes Resolution Policy; and
- (c) the Federal Nationals’ Harassment Protocol.

5 Receiving Complaints

A PSO will take reasonably practicable steps to protect a Complainant that makes a Complaint.

Generally, the identity of, or any information that is likely to lead to the identification of, the Complainant or individuals mentioned in a Complaint (this applies to such information obtained directly or indirectly because of the Complaint) will not be disclosed widely or to third parties.

Disclosures of information likely to lead to the identification of a Complainant may be made if the Complainant consents and if it is reasonably necessary for the purposes of dealing with a Complaint.

The Party will not tolerate victimisation of a Complainant that has made or attempted to make a Complaint. A member who engages in this conduct may be subject to disciplinary action pursuant to the Party’s Constitution.

The policy of the Party is that it will not engage in conduct that causes a Complainant detriment. In particular, the Party will not subject the Complainant to any liability (including disciplinary action) for making a Complaint (unless the Complaint is found to have been made maliciously). This protection applies whether the Complaint is proven or not.

6 Procedure in dealing with Complaints

Unless exceptional circumstances apply, a PSO should follow the steps listed below when a Complaint of Sexual Harassment or Sexual Assault has been received:

- (a) Most dealings between a PSO and a Complainant should be in writing and where conversations are necessary, detailed notes should be created. A PSO should consult with General Counsel before any piece of written communication is sent to the Complainant.
- (b) After receiving a Complaint, a PSO should use their best endeavours to obtain written consent from the Complainant in the form attached at **Annexure A**.
- (c) Once written consent (if any) has been obtained, the PSO is to make contact with the Complainant to commence the process.
- (d) If written consent is wholly or partly withheld by the Complainant such that the options for resolving the Complaint are significantly restricted, the PSO should consult with General Counsel regarding how the Complaint should be managed on a case by case basis. The Complainant should be advised in writing of the options available.
- (e) Subject to any advice from General Counsel referred to in paragraph 6(d) above, the PSO must then assess the severity of the allegations and determine the appropriate initial course of action to take in respect of the Complaint.
- (f) **Potential Criminal Conduct** - if the PSO believes that the Complaint may constitute a criminal offence, the PSO should consider reporting the Complaint to the police. Unless there are exceptional circumstances, a PSO should only refer a matter to the police with the consent of the Complainant. If the Complainant wishes to report the Complaint to the police themselves, the PSO will be available to assist the Complainant in this process.
- (g) If the PSO believes the Complaint may constitute a criminal offence, but the Complainant does not consent to the matter being reported to the Police, the PSO should seek advice from General Counsel about the appropriate next steps.
- (h) Subject to any advice from General Counsel referred to in paragraph 6(g) above, if the Complaint does not, on its face, constitute a criminal offence and/or the Complainant does not wish for the Complaint to be referred to the police, the PSO should discuss the course of action the Complainant would like to take in respect of the Complaint. These actions could include, but are not limited to:
 - (i) **Informal Resolution** - If the Complainant feels confident to do so, in the first instance, they may elect to try and resolve the matter directly with the other party involved by informing them that their behaviour is offensive and unacceptable. If that process proves to be successful, then no further action may be required.
 - (ii) **Informal Assisted Resolution** - If the Complainant's Complaint is unable to be resolved directly between those involved, or the Complainant does not feel comfortable in attempting to do so, the PSO may provide assistance in trying to resolve the issue if it is appropriate to do so. In assisting with an informal resolution, the PSO is not to act as a mediator between the Complainant and the Accused and is required to obtain any relevant approvals from General Counsel prior to undertaking any significant actions in resolving the Complaint.

- (iii) **Formal Resolution** - If informal resolution is not appropriate, or has not been successful, a more formal approach will be offered to the Complainant, which may result in the PSO assisting the Complainant to make a formal complaint to the State Executive, under Clause M of the Party's Constitution. This may result in an investigation into the alleged inappropriate behaviour by a Disputes Committee. With the Complainant's consent, in some circumstances it may be necessary for an external body (for example a law firm), to conduct the relevant investigation. Either type of investigation may result in disciplinary action being taken against the Accused by the State Executive.
- (i) If an informal resolution process is to be adopted, the PSO must confirm whether the Complainant would like to resolve the matter on their own or with the PSO's assistance.
- (j) If an informal resolution is not appropriate, or has not been successful, the Formal Resolution approach detailed above will be made available to the Complainant.
- (k) At any time, the PSO is encouraged to consult with the General Counsel about the Complaint and take advice about what may be the appropriate way to handle the matter.
- (l) If the Complainant elects to undertake a Formal Resolution, an investigation by a Disputes Committee or other external body, will likely be required. If the Complainant wishes to pursue Formal Resolution, prior to assisting the Complainant to make a formal complaint to the State Executive, the PSO is required to consult with General Counsel of the Party and, any other executive of the Party (e.g. the President), whom the General Counsel advises should be included for consultation. The purpose of such consultation is to determine whether the Complainant should be offered assistance to make a formal complaint to the State Executive, or whether it is more appropriate to offer the Complainant an investigation an external body.
- (m) There is no obligation on the PSO to conduct an investigation and make findings.
- (n) If the Complainant requests to be referred to a counselling service, the PSO will provide the Complainant with the details of some publicly funded services available at the time.

The flowchart attached to the end of this policy at **Annexure B** is intended to provide the PSO with a visual guide as to the recommended procedure for receiving and assessing a Complaint.

7 Obligations of a PSO

- (a) PSOs have a responsibility to:
 - (i) confidentially and sensitively receive approaches from people who allege they have been the subject of Sexual Harassment or Sexual Assault in connection to the Party or allege to have witnessed a Party member engaging in behaviour that amounts to Sexual Harassment or Sexual Assault, in connection to the Party;
 - (ii) provide the Complainant with support, advice and options;
 - (iii) ensure that their own behaviour complies with the Party's Constitution, policies and procedures;

- (iv) recommend pathways for resolution with honesty, whilst maintaining confidentiality;
- (v) ensure they do not cause, or threaten to cause, detriment to a Complainant;
- (vi) subject to the consent received, protect the identity of, or protect any information that is likely to lead to the identification of, the Complainant or individuals mentioned in a Complaint (this applies to such information obtained directly or indirectly because of the Complaint);
- (vii) conduct themselves in line with the Party's policies and the relevant legislation generally. This includes any State or Commonwealth legislation relating to the mandatory reporting relating to allegations of sexual offences against children as amended from time to time. The PSO may consult with the Party's General Counsel about any such obligations at any time;
- (viii) facilitate, receive and review/assess Complaints; and
- (ix) follow the procedures set out in paragraphs 5 and 6 above with respect to receiving and dealing with Complaints.

8 Confidentiality

Complaints may be made anonymously, although the PSO is best placed to assess a Complaint and protect the Complainant when the Complainant's identity is known. In the event that a Complainant would like to remain anonymous, they may elect to use a pseudonym for the purpose of their Complaint. However, this may limit the options for managing the Complaint.

If a Complaint is not anonymous, the PSO must keep the Complainant's identity (or any information that is likely to lead to the identification of the Complainant) confidential unless the Complainant has been consulted and consents to his or her identity being disclosed.

Disclosure of information that is likely to lead to the identification of a Complainant or other individual may be required where it is reasonably necessary for the purposes of investigating the Complaint. In such circumstances, reasonable steps to reduce the risk of the Complainant being identified should be taken such as:

- (a) the information disclosed will be limited to the person to whom the information is disclosed and they may be required to sign a confidentiality document; and
- (b) any files or reports created for the purpose investigating a Complaint will be kept secure.

Throughout the process of a Complaint being dealt with pursuant to this Guide, the privacy of the Accused will be also be maintained as far as practicable.

9 Investigation

In the event that a PSO receives a Complaint and the Complainant wishes to pursue it as a Formal Complaint, then in accordance with paragraph 6(l) above, the PSO will consult with General Counsel of the Party and, any other executive of the Party (e.g. the President) whom the General Counsel advises should be included for consultation. The purpose of such consultation is to determine whether the Complainant should be offered assistance to make a formal complaint to the State Executive, or whether it is more appropriate to offer the Complainant an investigation an external body.

The Party may elect to investigate the Complaint by an appointing external investigator, for example a law firm.

The PSO may be required to assist in any investigation by a Disputes Committee or an external body where necessary, however the PSO will not be required to make any findings in respect of any investigation.

Where a Complaint is the subject of an investigation, the PSO is to act as a channel of communication between the Party and the Complainant such as by providing the Complainant with updates on the status and progress of the investigation (where it is appropriate to do so).

10 Finalisation of a Complaint

The closure or finalisation of a Complaint is an important step to consider in this process.

The PSO should consult with the General Counsel about how a Complaint should be finalised on a case by case basis (e.g. a letter to the Complainant advising of the outcome and that the Complainant has advised that it was satisfactory, or where a Complainant decides not to continue with a Complaint, a letter to the Complainant documenting their wishes). In each case, the PSO must issue the Complainant with a notice informing the Complainant that the process has concluded and summarising the outcome.

11 Record keeping

It is important to keep detailed records of all aspects of a Complaint, any investigation and any potential disciplinary process. The PSO will keep records of each Complaint, including:

- (a) the names of all parties involved;
- (b) a summary of the issue/s raised, including the remedy or outcome sought;
- (c) accurate and up-to-date file notes of any action initiated under these guidelines and of any meetings or interactions with the Complainant. (The information contained in these file notes should be limited to stating only facts and relevant details as described by the parties, and the outcome of each stage); and
- (d) copies of all correspondence relating to the Complaint, including the notice issued to the Complainant informing the Complainant that the process has concluded and summarising the outcome.

The PSO shall mark such records as strictly confidential and hold them in their own restricted (hard copy or electronic) file until the finalisation of a complaint. Upon finalisation of a complaint, the PSO shall transfer all such records to the Party to be marked strictly confidential and held in a restricted (hard copy or electronic) file by the Party and retained for at least 7 years.

In the case of a formal investigation, the investigatory body (whether an external body or the Party's Disputes Committee) will transfer the records of all interviews conducted and all records reviewed that affect the outcome of the investigation to the Party to be marked strictly confidential and held in a restricted (hard copy or electronic) file to be retained for at least 7 years.

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Annexure A: Consent to Disclosure of Information

This form relates to a Complaint you have made to Liberal National Party's (**Party**) Personal Safety Officer (**PSO**). The Party seeks your consent to disclose your identity in the event that it is reasonably necessary for the purposes of dealing with your Complaint. Please tick the statements that you agree with and sign the form below.

- 1 I consent to allowing my identity and the facts and circumstances of my Complaint being disclosed to anyone in the Party, subject to the requirement that those who are informed, are informed on a need to know basis.
- 2 **ONLY IF YOU DID NOT TICK 1 ABOVE** – Alternatively to 1 above, I do not consent to the disclosure of my identity, but I do consent to my Complaint being disclosed in a de-identified form to anyone in the Party, subject to the requirement that those who are informed, are informed on a need to know basis.
- 3 I understand that the PSO may be required to discuss the facts and circumstances of my Complaint with the Party's General Counsel and other Party Executives and senior staff as may be required (unless they are the subject of the Complaint). I consent to this occurring.
- 4 I understand that as part of the assessment and possible investigation of my Complaint, my identity may be provided to the person the subject of the Complaint. I consent to this occurring.
- 5 **ONLY IF YOU DID NOT TICK 4 ABOVE** - Alternatively to 4 above, I do not consent to the disclosure of my name to the person the subject of the Complaint, but I do consent to my Complaint being provided to the person the subject of the Complaint in a de-identified form.
- 6 I understand that in the event of legal proceedings my identity may need to be disclosed under legal compulsion at law (even if I only provide conditional consent as per points 2 and 5 above).
- 7 I understand that if I do not provide the consent sought in the paragraphs above, this may limit the scope of the assessment and possible investigation into my Complaint and in turn, may otherwise limit the Party's options in managing and responding the Complaint.
- 8 I understand the Complaint is confidential and therefore, outside the Complaint process, I should not discuss the matter with anyone other than my support person, immediate family and/or a lawyer for the purpose of obtaining legal advice.
- 9 I understand that any time, I can withdraw my consent and/or Complaint.
- 10 I understand that the PSO will otherwise keep my identifying details confidential, save for the following circumstances:
 - (a) where I consent to the disclosure of my identifying details and it is reasonably necessary for the purposes of dealing with my Complaint;
 - (b) where otherwise required or compelled to do so by law.
- 11 I agree and consent to the Party using any information it collects about me for the purposes set out above (subject to any restrictions imposed by the *Privacy Act 1988* (Cth)).

I understand that the PSO, at any time throughout the process of dealing with my Complaint, may discuss the facts and circumstances of my Complaint with the Party's General Counsel (unless they are the subject of the Complaint) and consult with the General Counsel about the best way to manage and respond to a particular aspect of the Complaint.

If you have any concerns about this form or the process for dealing with a Complaint, you may discuss those concerns with the PSO.

I have read and understand this information. I agree to adhere to the conditions contained above and give my consent freely and willingly as stated above.

Signed:

Phone number:

Print name:

Email address:

Date:

Address:

Annexure B: Flowchart detailing recommended PSO procedure in dealing with a Complaint

