Preamble

RMIT has adopted this policy to reflect its commitment to equal opportunity and freedom from all forms of discrimination in education and employment. RMIT is committed to the prevention of sexual harassment and recognises the right of all students and staff to study and work in an environment which is free from sexual harassment and which is not sexually hostile.

Not only is sexual harassment prohibited by the Federal Sex Discrimination Act, 1984 and the Victorian Equal Opportunity Act, 1995 but it is incompatible with the achievement of RMIT’s goal of creating and sustaining a world class university. Prevention of sexual harassment is a key component in attaining high ethical standards and ensuring excellence in all activities.

RMIT is committed to creating an environment where all staff and students are treated with dignity and respect and where diversity is valued.

The prevention of sexual harassment is a key management responsibility that enhances the ability of students to reach their full potential in a safe, quality focussed learning environment. It contributes to the achievement of the quality management principles that are essential to the achievement of the teaching and learning strategy, and for work groups it contributes to productivity and high quality outcomes.

Disciplinary action may be taken against employees and students who breach this policy.

Further, RMIT will do everything possible to ensure that people coming forward with complaints are not victimised and that complaints remain confidential. RMIT will ensure that all people involved in a complaint, including the person making the complaint, the person being complained about and any witnesses providing assistance, are treated fairly.

People seeking assistance in resolving incidents of sexual harassment have a number of options. RMIT will ensure that people receive the information that is needed to make a decision about what option or options are pursued and recognises that the choice of options rests with the complainant. At all times, RMIT’s aim in providing assistance to members of its community is to ensure that the offensive behaviour ceases.

Sexual harassment is unlawful, unacceptable and will not be tolerated by RMIT in any circumstances.

David Beanland
Vice-Chancellor

Purpose

The purpose of this policy is to set out the framework within which RMIT will work to prevent sexual harassment and to handle complaints. The framework is established by the aims and guiding principles which will inform strategies which will be developed from time to time to meet the needs of the RMIT community and by the guidelines established for complaint management.

Scope

This policy applies to staff and students employed by or enrolled at RMIT. It also applies to contractors, service providers, clients, customers and visitors. It applies at all RMIT locations whether in Australia or overseas. RMIT companies are covered by their own sexual harassment policies.
Legislative Framework

Sexual harassment is prohibited by the *Equal Opportunity Act 1995*, Victoria and the Federal *Sex Discrimination Act 1984*. All states have similar legislation. These acts also make victimisation unlawful.

Sexual Harassment

Sexual harassment is any unwanted, unwelcome or uninvited behaviour of a sexual nature, which makes a person feel humiliated, intimidated or offended. Sexual harassment can take many different forms and may include physical contact, spoken comments, jokes, propositions, the display of offensive material or other behaviour which creates a sexually hostile environment.

Examples of sexual harassment can include, but are not confined to:

- uninvited touching, kisses, embraces or other physical contact, including unwelcome physical contact such as massaging a person without invitation or deliberately brushing up against them, touching or fiddling with a person’s clothes, such as lifting up skirts, flicking bra straps or putting hands in a person’s pockets;
- jokes or comments with sexual overtones which the recipient finds offensive;
- making threats or promises in return for sexual favours. Such threats or promises may be implied or explicit;
- displays of sexually graphic material including posters, pinups, cartoons, graffiti, material from the Internet or messages left on notice boards, desks or common areas, including transmission by e-mail and including offensive screen savers;
- repeated invitations to go out after prior refusal;
- “flashing” or sexual gestures;
- sex-based insults, taunts, teasing or name-calling or sexually explicit conversation;
- staring or leering at a person or at parts of their body;
- requests for sex or persistent questions or insinuations about a person’s private life;
- offensive phone calls or letters; and
- stalking.

Some behaviour may also constitute a criminal offence such as sexual assault or stalking.

Sexual harassment is not behaviour that is based on mutual attraction, friendship and respect. If the interaction is consensual, welcome and reciprocated, it is not sexual harassment.

A supervisor, manager, co-worker, teacher, lecturer, tutor, contractor, service provider, client, customer, student or visitor to RMIT could commit sexual harassment. Sexual harassment is unlawful in any work- or education-related context, including parties and functions sponsored by RMIT, field trips or excursions.

Guiding Principles

The following principles will guide RMIT in dealing with sexual harassment:

- Respect for, and dignified and courteous treatment of all staff, students and all persons who deal with RMIT.
• RMIT aims to establish a climate where sexual harassment does not occur and thus there will be an emphasis on prevention. In support of this, RMIT will ensure that all members of the RMIT community have access to the information and support needed to prevent sexual harassment or to deal with it appropriately if it occurs.

• RMIT acknowledges its responsibility to ensure that all employees and all students whether on campus or on placement or field trips are aware of what constitutes unacceptable behaviour. Further, it will ensure that all managers and supervisors are aware of their responsibility for ensuring the maintenance of proper standards of conduct within the university context. RMIT will support any staff or student who experiences sexual harassment whilst on placement including providing assistance in making use of any internal procedures in place at the site or in accessing external forums.

• RMIT is committed to educating the university community about the nature and effects of sexual harassment.

• Complaints will be dealt with in a sensitive, equitable, fair, timely and confidential manner, which ensures that respondents are accorded natural justice through the use of procedures that are impartial, open and fair to all parties.

• RMIT will ensure complainants are protected from victimisation or reprisals.

• RMIT will actively encourage the reporting of behaviour that breaches this policy.

Activities to be undertaken in support of this policy

The Management Consultancy Services, People Services will develop an annual plan in consultation with People Services, the Pro Vice-Chancellor (Academic Services and Equity), the Student Union Council and the Sexual Harassment Reference Group. The plan will detail for the coming year:

• preventative, training and educational activities to be undertaken, including publication of resource materials. This will include assistance to staff to become more effective in ensuring equality of opportunity in teaching and service situations;

• the resources to be allocated to the prevention of sexual harassment;

• research activities; and

• evaluation and review activities;

It will also detail:

• the results of the evaluation of the previous year’s activities, including an evaluation of complaint management and resolution activities;

• the environment in which the policy is operating- internal to RMIT and external;

• proposals for activities to be undertaken in the medium to longer term.; and

• goals for the short term, medium term and longer term.

RMIT will ensure that prevention of sexual harassment is recognised as a key organisational goal and a prime management responsibility.
Consequences if this policy is breached

RMIT will treat all allegations of sexual harassment seriously and impartially. Should a complaint be upheld, consequences for the respondent (the person who has committed the harassment) will depend on the seriousness of the case. Consequences for staff could include making an apology, undertaking counselling, demotion or other forms of disciplinary action, up to and including dismissal. For students, the consequences could include making an apology, a reprimand, suspension or expulsion. Disciplinary action may be taken against anyone who victimises or retaliates against a person who has complained of sexual harassment. Reference should be made to the separate policy on Victimisation.

Responsibilities of management, staff and students

RMIT has a legal responsibility to prevent sexual harassment, otherwise it can be held liable for the behaviour of its employees and students. In addition to this legal responsibility, RMIT considers that sexual harassment is incompatible with its goals and with its view that all people should be treated equally with respect, dignity and courtesy.

All staff and students have a responsibility to:

- comply with this policy; and
- maintain complete confidentiality concerning any complaint or investigation.

All staff have an additional responsibility to model appropriate behaviour and promote a climate of mutual respect.

Staff who are managers, supervisors, academics and teachers have the following additional responsibilities:

- monitor the working and studying environment to ensure that acceptable standards of conduct are observed at all times and to take action if they observe unacceptable conduct;
- promote this policy within their sphere of influence and to ensure that all persons have an understanding of the policy and its requirements;
- ensure that students and staff are aware of RMIT’s commitment to assist them should they experience sexual harassment on placement; and
- ensure that students and staff on placement are provided with adequate information about the policies and practices in existence at that site.

Managers are accountable for the conduct of staff and students under their management. It is integral to a manager’s responsibilities that he or she should identify, prevent and redress potential problems in the workplace or in the study environment before these become the subject of complaints. Therefore, any manager, academic or teaching staff who observes inappropriate behaviour has a duty to raise it with the person so behaving and to take further action if the behaviour does not cease. This duty exists even in the absence of a complaint.

Complaints

Anyone who believes that they are experiencing sexual harassment has a range of options and the key points about RMIT’s approach follow.
1. Initial Advice and Information

Information and confidential advice is available from the following people:

Sexual Harassment Contact Officers, SUC Student Rights Officers and Women’s Officers, staff unions, the Equal Employment Opportunity Branch, which includes the Student Sexual Harassment Complaints Officer, International Student Advisors, the Centre for International Students and Scholars, Student Affairs and the RMIT Health Service.

Information and confidential advice is also available from the Equal Opportunity Commission.

All will assist in the consideration of all options.

Where appropriate, complainants will be informed of their right to inform the police or be advised to seek medical advice.

2. Making a complaint

2.1 Lodging a complaint

Should a person wish to lodge a complaint, the Equal Employment Opportunity Branch should be approached.

If the complaint is accepted, the EEO Branch intake officer assists the complainant (the person making a complaint) to put the complaint in writing if it is not already and discusses options for resolution.

2.2 Conditions under which a complaint may not be accepted

The EEO Branch intake officer will make an initial assessment of the complaint and, if it is considered that the complaint would not constitute sexual harassment, that is, if it is misconceived, or if the complaint is considered trivial or vexatious, then the complaint may not be accepted. If the intake officer considers that the nature of the complaint does not constitute sexual harassment, other options for possible further action will be discussed with the complainant.

2.3 Options available to the complainant

The choice of option rests with the complainant and includes:

- choosing to resolve the matter personally, with or without assistance and support;
- choosing conciliation;
- choosing to have the complaint investigated;
- choosing to have the matter resolved by complaining to the Equal Opportunity Commission or the Human Rights and Equal Opportunity Commission; and
- taking no further action.

If the complaint is not accepted, the complainant will be informed of the reasons for this. Staff complainants may appeal to the Executive Director, People Services for reconsideration and students may appeal to the Pro Vice-Chancellor (Academic Services and Equity) for reconsideration.
2.4 Resolving the complaint through an informal resolution process

This is concerned with reaching an outcome which is acceptable to both parties and which allows the parties to continue in a productive working relationship. With an informal resolution process, RMIT does not investigate the complaint and does not form any view about its merits. The officer's role is to facilitate an agreement between the parties with the key being a mutually acceptable outcome.

2.5 Resolving the complaint through a formal resolution process

Where a formal complaint has been raised with RMIT or where RMIT otherwise becomes aware of circumstances which might be in breach of this policy, an investigation will be undertaken into those matters.

The investigation will:

• be conducted by an officer independent of the informal resolution process, the intake officers and all previous attempts at resolution;
• apply the principles of natural justice. See "Definitions" on page 9;
• result in a finding as to whether sexual harassment occurred; and
• result in a report being made to the Vice-Chancellor which outlines the investigation, the evidence, the conclusions of the investigation and the recommendations for resolution.

The investigation report will be provided to the parties before presentation to the Vice-Chancellor and parties will have the right to make a written submission to the Vice-Chancellor about the report. Parties must indicate their intention to make such a submission within seven days of the Vice-Chancellor's receipt of the report and to provide their submission within the timeframe negotiated with the Vice-Chancellor.

3. Support Persons

Parties are permitted to have a support person present at any interviews or meetings. The role of the support person is to assist the party and to act within the bounds of the processes established for the meeting or interview. A support person could include a friend, a family member, an officer of the Student Union, such as a Student Rights Officer or an officer of a trade union. The support person should not be in receipt of specific payment for acting as a support person. In addition to support persons, parties may have an interpreter or other person with specialist skills, or other necessary equipment present at all meetings. Industrial officers and student rights officers may act as support persons with the provisos as stated.

4. Time limit on complaints

Complaints should be made as soon as possible and generally within twelve months after the incident(s) has occurred. If the incidents occurred more than twelve months earlier, the matter will be referred to the Executive Director, People Services if the complainant is a member of staff, or to the Pro Vice-Chancellor (Academic Services and Equity) if the complainant is a student. They will assess whether the reasons for the delay are such that the complaint should still be accepted and dealt with by RMIT's internal procedures.
5. Possible outcomes

Outcomes can include (but are not restricted to) any, or a combination of any, of the following:

- counselling of the respondent;
- official warnings noted on the respondent’s personal file;
- formal apology by the respondent;
- reimbursement of any costs associated with the harassment, including, for example for staff, restoration of sick leave or other leave credits, where the leave was taken as a result of the harassment, or for students, refunding of fees paid;
- amended assessment including special consideration in examinations or in respect of course work;
- any mutually acceptable resolution arising out of the informal resolution process;
- disciplinary action against the respondent;
- disciplinary action against the complainant, if after investigation, a complaint is found to be vexatious or malicious; and
- complaint not upheld.

6. Rights and Responsibilities of complainants and respondents when a complaint is made

In order for the sexual harassment procedures to operate fairly and effectively, it is important that both complainants and respondents act in good faith. Good faith includes acting in a sincere fashion without malice, maintaining confidentiality and being prepared to be truthful.

6.1 Rights and responsibilities of complainants:

Complainants have the right to:

- have their complaint treated seriously, impartially, sensitively, promptly and confidentially;
- determine the way in which their complaint is handled (whether by handling it themselves with advice and support, by informal resolution procedures or by the use of formal procedures);
- be fully informed of their options under this policy;
- be protected against victimisation and reprisals;
- have a support person, who complies with the processes established, present at any interviews or meetings;
- withdraw the complaint without prejudice, except where the complaint is found to be malicious or vexatious;
- have reasons for decisions or recommendations fully explained to them; and
- refer their complaint to the Equal Opportunity Commission. (If a complainant refers a complaint to the Equal Opportunity Commission, it will be taken as an indication from the complainant that he or she does not want RMIT to continue to try to resolve the matter internally).
Complainants’ responsibilities are to:

- raise concerns about inappropriate behaviour at the earliest possible time because this will maximise the likelihood of effective resolution;
- comply with the requirements of RMIT’s procedures;
- act in good faith;
- maintain confidentiality; and
- abide by RMIT’s decisions in respect of the internal resolution of the complaint. This does not preclude a complainant lodging a complaint with the Equal Opportunity Commission or Human Rights and Equal Opportunity Commission.

6.2 Rights and responsibilities of respondents:

Respondents have the right to:

- be fully informed of the complete nature and extent of allegations made against them;
- be accorded natural justice;
- have the complaint handled sensitively, impartially, promptly and confidentially;
- have a support person, who complies with the processes established, present at any interviews or meetings; and
- have reasons for decisions or recommendations fully explained to them;

Respondents’ responsibilities are to:

- comply with the requirements of RMIT’s procedures;
- act in good faith;
- maintain confidentiality; and
- abide by RMIT’s decision in respect of the internal resolution of the complaint. Failure to so comply may render the respondent liable to disciplinary proceedings.

7. Debriefing Service

RMIT recognises the stress involved in being a party to a complaint, for all parties. To this end has engaged an independent debriefing service which is made available to parties at the conclusion of the internal process. The service is voluntary, confidential, away from RMIT and free to parties. The service is accessed through the EEO Branch and offers both individual and group debriefing as appropriate.

Reference

Sexual Harassment Policy approved by Council, December 1997 to be effective from 1 January 1998.

Reference should be made to the Equal Opportunity Policy, Victimisation Policy, Student Complaints Policy and Staff Personal Grievance Policy. In addition, reference should be made to the Student Discipline code and to the discipline provisions of Awards covering staff.

For details go to Employee Relations, People Services website
Other Sources of Information and Assistance

1. **The Equal Opportunity Commission of Victoria**
   The Commission’s address is
   Level 3, 380 Lonsdale Street
   MELBOURNE  3000
   Telephone  (03) 9281 7111
   Freecall  1800 134 142
   TTY  (03) 9281 7110
   Facsimile  (03) 9281 7171
   The Equal Opportunity Commission administers state and federal anti-discrimination laws and provides information and confidential advice as well as accepting complaints.

2. **The Victoria Police**
   The Police are able to provide assistance in the case of sexual assault. Contact should be made with the local Community Policing Squad.

3. **Centre Against Sexual Assault (CASA)**
   270 Cardigan Street
   CARLTON
   Telephone:  (03) 9344 2210 (business hours)
   CASA after hours state-wide telephone service:
   Carlton  9349 1766
   Freecall  1800 806 292

4. **National Tertiary Education Union (NTEU)**
   RMIT Branch  (03) 9925 2498
   Federal Office  (03) 9254 1880

5. **Australian Education Union**
   RMIT Branch  (03) 9925 4702
   State Office  (03) 9417 2822

6. **Student Union Council**
   City Campus  (03) 9925 2055
   Bundoora West Campus  (03) 9925 7226
   Bundoora East Campus  (03) 9925 6151

7. **RMIT Student Services**
   City Campus  (03) 9925 2963
Definitions

Complainant
A person who makes a complaint of sexual harassment

EEO Branch
Reference to the EEO Branch in this policy includes a reference to the Student Sexual Harassment Complaints Officer.

Intake officer
The person within the Equal Employment Opportunity Branch who receives the complaint and assesses whether it should be accepted as a complaint of sexual harassment.

Investigator
An person or persons who has not previously been involved in the assessment or management of the complaint whose task is to gather evidence, draw conclusions and come to a finding about the complaint which can form the basis of recommendations to the Vice-Chancellor for resolution of the complaint.

Natural justice
This is the minimum standard of fairness to be applied in the investigation and adjudication of a complaint. It is also referred to as procedural fairness. The requirements of natural justice are:

- fully informing a person of any allegation(s) made against them;
- giving them the opportunity to state their case, provide an explanation or put forward a defence;
- ensuring that proper investigation of the allegations occurs, that all parties are heard and relevant submissions are considered; and
- ensuring that the decision-maker acts fairly and without bias.

Respondent
A person against whom a complaint of sexual harassment has been made.

Support Person
A person who assists either party with the process of complaint resolution without receiving any payment for this assistance. A support person could include a friend, a family member, an officer of the Student Union, such as a Student Rights Officer or an officer of a trade union. The support person must act within the processes set down for the meeting.

Victimisation
Subjecting a person to detriment or threat of detriment because they have made or propose to make a complaint of sexual harassment either to RMIT, the Equal Opportunity Commission or the Human Rights and Equal Opportunity Commission.

Review Date
31 December 2003