

women*scircus

Policy: Discrimination, harassment and bullying

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Responsible persons: Executive Director

Discrimination, harassment and bullying

Our Commitment to prevention and intervention of Discrimination, harassment and bullying

In line with relevant local, state and federal government law, we aim to ensure that Women's Circus is a safe place to participate, free of discrimination, harassment and bullying. It is the Women's Circus' goal that all Circus members, employees, contractors, volunteers and/ or other participants of the Women's Circus feel safe, secure and free from intimidation when they are participating or engaged in Circus programs.

Purpose

Discrimination, harassment, or bullying of Women's Circus members, employees, contractors, volunteers and/ or other participants will not be tolerated.

Breach of this policy may lead to disciplinary action being taken such as exclusion from membership for members, or termination of employment for employees.

Scope

Compliance with this policy is mandatory for all members, employees, contractors, volunteers and/ or other participants of the Women's Circus. This policy applies while at the Women's Circus, at offsite locations whilst performing duties on behalf of Women's Circus, at Women's Circus' related or sponsored events, while travelling on Women's Circus related business and on other occasions where there is a connection to Women's Circus.

This policy is not intended to stifle healthy, robust relationships or interactions, nor to eliminate differences of opinion, value or belief. Rather this policy celebrates a positive working, training and social environment where difference is held in high regard and members can actively participate with safety and respect.

This policy should be read in conjunction with the Women's Circus' grievance and disciplinary policy.

Accountabilities

Women's Circus employees are accountable for:

- Ensuring that all members, employees, contractors, volunteers and/ or other participants of the Women's Circus are aware of and understand this policy.
- Demonstrating leadership behaviour consistent with the expectations outlined in this policy.
- Acting promptly and confidentially where they suspect discrimination, harassment or bullying has occurred and reporting the matter to **Executive Director or Board Chair**.
- Seeking assistance where appropriate to ensure the satisfactory resolution of any issues or conflict that may arise around discrimination, harassment or bullying

All Women's Circus community members, including training members, contractors and volunteers, are accountable for

- Reading, understanding and behaving in accordance with this policy
- Demonstrating care and concern for the wellbeing of others, reporting discrimination, harassment or bullying to a Women's Circus staff member
- Participating in conflict resolution processes in good faith, aiming to restore positive and healthy relationships within the community.

The Executive Director and Board Chair are accountable for:

- Preventing discrimination, harassment and bullying wherever possible
- Preparing to manage allegations of discrimination, harassment and bullying by ensuring the relevant policies and procedures are regularly reviewed and updated and that all members, employees, contractors and volunteers are aware of and understand them
- Responding to allegations of discrimination, harassment and bullying in a timely way, respecting natural justice and ensuring investigations and resolutions are fair and equitable
- Recovering from instances of discrimination, harassment and bullying, restoring safe, positive and healthy relationships within the community.
- Monitoring allegations and instances of discrimination, harassment and bullying to ensure patterns or trends are identified and systemic or structural improvements occur.

Definitions

Discrimination

Unlawful discrimination occurs when a person is discriminated against based on treating a person less favourably because of an attribute they possess (or are assumed to possess) such as sex, gender identity marital status, pregnancy, family responsibilities, sexuality, race, disability, political or religious belief, or age. Discrimination can be either direct or indirect and can also occur when a person is treated less favourably because they associate with someone who has, or is assumed to have, one of these characteristics.

Harassment

Harassment comprises any unwelcome, unsolicited, offensive, abusive, belittling, or threatening behaviour directed at an individual or group because of some real or perceived attribute such as a person's sex, sexuality, ethnicity, or disability in circumstances which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would be offended, humiliated, or intimidated, whether or not that effect is intended.

Sexual harassment is any uninvited or unwelcome behaviour of a sexual nature that a reasonable person would anticipate might offend, humiliate or intimidate another person, whether or not that effect is intended.

Sexual harassment includes, but is not limited to:

- subjecting another person to an unsolicited act of physical intimacy;
- making an unsolicited demand or request (whether directly or by implication) for sexual favours from the other person;
- making a remark with sexual connotations relating to the other person; or
- engaging in any other unwelcome conduct of a sexual nature in relation to the other person.

Sexual harassment can include conduct such as:

- Making requests for sex
- Unwelcome touching, hugging or kissing
- Sexual comments or jokes
- Questions about a person's sex life
- Explicit text messages or emails
- Staring or leering

Sex-based harassment occurs where a person engages in unwelcome conduct of a demeaning nature based on the other person's sex, or a characteristic of their sex (in other words, based on a gender stereotype), where a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

Employees must not subject others to a hostile workplace environment on the grounds of sex by engaging in conduct that a reasonable person, having regard to all the circumstances, would have anticipated the possibility of the conduct resulting in the workplace environment being offensive, intimidating or humiliating to a person of the sex. This could include displaying offensive materials.

All forms of harassment are unlawful, and employees must not engage in sexual harassment, either at work or where there is a connection to the workplace.

In summary, harassing behaviour:

- may or may not be intended to hurt another person (intent is irrelevant)
- can be conducted by one or more people

Harassment can take place via physical means such as verbally, hardcopy written letters, or electronic means such as email, phone messaging, smart apps, social media platforms or the internet. It is a common misconception that electronic communication is private. All email correspondence created, sent, forwarded, stored or printed at the Circus is the Circus' property. The Circus may inspect Circus email

at any time without notice and take appropriate action if there is found to be any inappropriate content.

Members, employees, contractors, volunteers and/ or other participants of the Women's Circus may not display or transmit the following:

- Offensive, defamatory, discriminatory or harassing material (e.g. in the form of online images or messages)
- Sexually explicit or other offensive messages, images or jokes
- Harassing messages whether through content, language, frequency or size of messages, including online, phone or hardcopy content.

The following behaviour is not harassment:

- Appropriate counselling or discipline, which is fair and addresses genuine problems with behaviour/participation in a constructive manner.
- Sexual interaction, flirtation, attraction, or friendship, which is welcomed.

It is important to recognise that behaviour or comments that may not offend one person may be unwelcome or offensive to another.

Bullying

Bullying is repeated, unreasonable behaviour directed towards a person, or a group of persons, that causes a risk to health and safety.

- Repeated behaviour refers to the persistent nature of the behaviour and can refer to a range of behaviours over time.
- Unreasonable behaviour means behaviour that a reasonable person, having regard to the circumstances, may see as unreasonable. For example, because the behaviour is victimising, humiliating, undermining or threatening.
- Risk to health and safety means that the bullying behaviour must be repeated, unreasonable and cause a risk to health and safety. This includes both physical and psychological health.

Bullying may be direct or indirect.

Direct bullying includes, but is not limited to:

- using abusive, insulting or offensive language;
- spreading misinformation or malicious rumours;
- engaging in behaviour or language that frightens, humiliates, belittles or degrades. For example, over-criticising, or criticism that is delivered with yelling or screaming;
- displaying offensive material;
- making inappropriate comments about a person's appearance, lifestyle, their family or sexual preferences;
- teasing or regularly making someone the brunt of pranks or practical jokes;
- interfering with a person's personal property or work equipment; or
- engaging in harmful or offensive initiation practices.

Indirect bullying includes, but is not limited to:

- unreasonably overloading a person with work or not providing enough work;
- deliberately setting timelines that are difficult to achieve or constantly changing deadlines;

- deliberately setting tasks that are unreasonably below or beyond a person's skill level;
- deliberately excluding, isolating or marginalising a person from normal work activities;
- withholding information that is vital for effective work performance;
- deliberately denying access to information, consultation or resources;
- deliberately changing work arrangements, such as rosters and leave, to inconvenience a particular person; or
- unfair treatment.

Reasonable management action carried out in a reasonable manner is not bullying. This includes directing the way in which work is performed, undertaking performance reviews, providing feedback (even if negative), and disciplining employees.

Examples of reasonable management action include:

- setting reasonable performance goals, standards and deadlines in consultation with employees and after considering their respective skills and experience;
- allocating work to an employee in a transparent way;
- fairly rostering and allocating working hours;
- transferring an employee for legitimate and explained operational reasons;
- deciding not to select an employee for promotion, following a fair and documented process;
- informing an employee about unsatisfactory work performance in a constructive way and in accordance with any workplace policies or agreements;
- informing an employee about inappropriate behaviour in an objective and confidential way;
- implementing organisational changes or restructuring; and
- engaging in performance management processes.

Reporting Discrimination, Harassment and Bullying Process

Women's Circus encourages all members, employees, contractors, volunteers and/or other participants to report instances of discrimination, harassment or bullying.

Any reports of discrimination, harassment or bullying will be treated in a fair, objective, confidential and timely way.

If you have experienced discrimination, harassment or bullying connected to Women's Circus, the first step is to let us know.

Initial contact points:

Pippin Remi - Executive Director - execdirector@womenscircus.org.au

Or

Noni Sproule – Board Chair – boardchair@womenscircus.org.au

They will:

- Listen to the person making the report and their concerns about discrimination or harassment.
- Provide information about the internal complaint process and other options available to the person.

- Where appropriate, provide support for a person if they want to try and resolve the issue personally.
- Provide a reasonable amount of information about available support services, for example our Employment Assistance Program.

Ensure the processes for making an enquiry, making a complaint, investigating a complaint and resolving a complaint are accessible, including (but not limited to) providing alternate means of communication, negotiating flexibility with timelines or welcoming the support and expertise of third parties where applicable.

Decisions regarding the resolution of complaints regarding discrimination, harassment or bullying will usually be made by the Executive Director with the guidance of the Board of Directors.

Early intervention and informal resolution

In some situations, it may be appropriate to consider early resolution of an initial complaint without undertaking an assessment of its merit. This is a way of solving an issue without a formal report or investigation. Early intervention is possible through an individual self-managing a situation or seeking help from someone else to raise the issue.

This approach may be useful where:

- the complainant indicates a desire to sit down and discuss the matter with the respondent informally and this seems appropriate in the circumstances
- the information on hand supports a view that the complaint has arisen from a misunderstanding or miscommunication
- the behaviour being complained about is not serious and may not be discrimination or harassment, as defined by the organisation's policy.

Early resolution may involve:

- a direct private discussion between the complainant and the respondent if the individual who experiences the behaviour is confident and safe to do so.
- an impartial third person conveying information between those involved
- an impartial third person helping those involved to talk to each other and find a solution.

In some situations, the impartial third person may need to be someone external to the organisation, such as a professional mediator.

Formal investigation and resolution

If Early Intervention / Resolution is not appropriate or does not resolve the matter, a Formal Investigation and Resolution will take place.

A report of discrimination, harassment or bullying may be investigated where the alleged behaviour:

- occurred over a long period of time
- is complex and/or serious in nature
- involves multiple employees, contractors, volunteers and/or other participants
- is in dispute, with contradictory input from those involved or witness to the behaviour
- involves Women's Circus leadership
- where other processes have not been able to resolve the matter or are deemed by one or more party as inappropriate or unsafe.

Investigations will be undertaken by an impartial and experienced internal or external person with knowledge about how to deal with such matters. The investigator will be neutral to all parties involved, and/or declare any perceived conflicts of interest prior to proceeding.

The investigation may include:

- Obtaining evidence from all parties to the complaint, including witnesses.
- Gathering relevant documents or records, including digital and social media records.
- Advising the respondent about the complaint and offering them the opportunity to respond to the allegation in writing or through an interview, in accordance with principles of natural justice.
- Assessing all of the evidence to determine, on balance of probability, if the behaviour would be considered bullying, discrimination or harassment as defined in the organisation's policy.
- Determining an appropriate outcome.

The outcome of the investigation is final and not subject to appeal.

Possible outcomes include:

- Dismissal of the complaint where the evidence fails to substantiate the allegation or the complaint was found to be falsely made.
- Upholding the complaint, determining that discrimination, harassment or bullying occurred, with one or more of the following resolutions:
 - An apology
 - A formal warning
 - Counselling
 - Exclusion from specific Women's Circus activities or places of operation
 - Suspension or termination of membership
 - Suspension or termination of employment
 - Other disciplinary actions deemed appropriate to the case.

Record-keeping and monitoring

Notes will be taken of each issue and a record kept in a confidential and secure place. Records will be kept for seven years. Under no circumstances will records be placed on a complainant's personal file.

External remedy

Regardless of internal processes, any party to a complaint is free to lodge a complaint with the relevant external body. Complaints lodged with an external authority are at the member's cost.

Criminal conduct

Some forms of harassment (e.g. sexual assault, stalking, indecent exposure, physical molestation, obscene phone-calls) may constitute criminal conduct. Any member experiencing this type of harassment can choose to report the matter to the police. Women's Circus is not obligated to report criminal conduct to the police on behalf of the complainant. The exception is any report of sexual harassment of a person 16 or under, in accordance with failure to disclose legislation.

Regardless of whether the matter has been reported to the police, a complainant can still bring a serious matter to the attention of the Women's Circus Executive Director or Board Chair. When informed about an allegation of a serious nature, Women's Circus will still act to ensure the safety and wellbeing of its members, employees, visitors and contractors. This may include conducting an investigation or acting on the outcome of a criminal investigation, once known.

Victimisation, paybacks and retribution

Victimisation occurs when a person is treated less favourably because they made a complaint about unlawful discrimination or harassment, or have taken certain related actions such as appearing as a witness. This is regardless of whether the complaint is able to be substantiated.

Victimisation, payback or retribution because a complaint has been made or is about to be made and/or intimidation meant to prevent a claim being made, is unlawful behaviour and will not be tolerated. If disadvantage is found to have occurred due to that member's involvement in a complaint, disciplinary action may be taken against the person engaging in victimisation. This policy extends to actual or potential complaints, witnesses, supporters and those investigating/resolving complaints.

False accusations

Complaints made in bad faith or as a practical joke to create problems for another member will not be tolerated. If false accusations are found to have occurred, disciplinary action may be taken. This should not prevent individuals from coming forward with complaints. Disciplinary action will not be taken against individuals raising complaints they genuinely believe, or had reason to suspect, were true.

Confidentiality

All information provided as a result of this policy will be kept confidential, as far as reasonably possible. No information will be released to any third party unless it has been discussed with the individual, or to obtain professional or legal advice or if required by law.