

Anti-discrimination, Harassment and Bullying Policy



1. Objective of Policy

- (a) The objective of this Policy is to ensure that all Motorsport Australia Board, staff and volunteers understand Motorsport Australia's expectations and their legal obligations in relation to discrimination, harassment and workplace bullying.
- (b) Motorsport Australia seeks to:
 - (i) create a working environment which is free from unlawful discrimination, harassment, victimisation and workplace bullying and where each person is treated with courtesy, dignity and respect;
 - (ii) have employment practices which ensure that individuals or members of a particular group are not discriminated against because of their attributes;
 - (iii) promote appropriate standards of conduct; and
 - (iv) promptly resolve issues when they occur and resolve complaints in a fair and timely manner.

2. Scope of Policy

This Policy applies to Motorsport Australia Directors, management, staff, officials and volunteers.

3. Definitions

Capitalised terms used in this Policy have the following meanings unless stated otherwise:

- (a) **Individual** means a person to whom this Policy applies;
- (b) **Motorsport Australia** means the Confederation of Australian Motor Sport Ltd. trading as Motorsport Australia and all subsidiaries and related entities.

4. Law

Motorsport Australia is subject to Federal, State and Territory legislation prohibiting discrimination, harassment, workplace bullying, victimisation and vilification. This legislation varies in its content and the penalties imposed between the various jurisdictions. Ignorance of the law is neither an acceptable defence nor an excuse for inappropriate behaviour. Under the relevant legislation it is not relevant whether the behaviour was intentional or unintentional.

5. Policy Statement

- (a) Discrimination

It is against the law for an Individual to discriminate against or harass a current or prospective employee/volunteer on the basis of the grounds stated below.

Protected attributes include, but are not limited to, a person's:

- (i) age;
- (ii) disability;
- (iii) breastfeeding;
- (iv) employment activity;
- (v) marital, parental or carer status;
- (vi) physical features;
- (vii) political beliefs or activity;
- (viii) pregnancy;
- (ix) race;
- (x) sex;
- (xi) sexual orientation;
- (xii) gender identity;
- (xiii) religious beliefs or activity.

It is also unlawful to discriminate against a person because that person is personally associated with someone who has, or is assumed to have, one of the above characteristics.

Unlawful discrimination includes both direct and indirect discrimination:

<p>Direct discrimination</p>	<p>Any action whereby someone is treated, or it is proposed they be treated, unfavourably because of the above characteristics protected by law.</p> <p>An example of direct discrimination would be an employer refusing to hire a person because of their race.</p>
<p>Indirect discrimination</p>	<p>When an unreasonable condition is imposed that disadvantages a person with a personal characteristic listed above and protected by law.</p> <p>For example, if an employer were to hire only people over 180cm tall and there was no good reason for that policy, then that would indirectly discriminate against women who are less likely to meet the height requirement</p>

(b) Harassment

Harassment is any form of behaviour that:

- (i) is not wanted;
- (ii) offends, humiliates or intimidates; and
- (iii) targets an Individual because of their sex, pregnancy, race, age, marital status, homosexuality, disability, transgender (transsexual) status or carers' responsibilities.

Harassment is behaviour that causes humiliation, offence or intimidation on the basis of another person's protected attribute. Harassment can be physical, verbal or written. It can include words, pictures or statements. It can be transmitted by post, phone, fax, video, email or a screen saver. For example, calling a person by a nick-name based on their sexual orientation could amount to harassment.

Racial vilification involves conduct that might vilify or incite hatred against individuals or groups because of their race or religion.

(c) Sexual Harassment

"Unlawful Sexual harassment" is unwelcome sexual behaviour which could be expected to make a person feel offended, humiliated or intimidated in breach of Commonwealth, state or territory law.

Sexual harassment is any form of sexually related behaviour that:

- (i) Is not wanted; and
- (ii) in the circumstances, a reasonable person would have expected the Individual to be offended humiliated or intimidated.

(d) What can be considered harassment or sexual harassment?

There are many forms of harassment including but definitely not limited to:

- (i) material that is based on the grounds listed above that is displayed or circulated in the workplace even on a person's belongings;
- (ii) verbal abuse or comments that put down or stereotype people on the grounds listed;
- (iii) sexually suggestive or offensive jokes or gestures based on the grounds listed;
- (iv) ignoring, isolating or segregating a person or group on the grounds listed;
- (v) staring, leering or non-physical (whistling etc.) attention of a sexual nature;
- (vi) sexual or physical contact, such as slapping, kissing touching or hugging;
- (vii) intrusive questions about sexual activity or requests for sex;

- (viii) initiation ceremonies that involve unwelcome behaviour based on the grounds listed;
- (ix) displaying offensive screen savers, photos, calendars or objects.

A person sexually harasses another if they:

- (i) make an unwelcome sexual advance or an unwelcome request for sexual favours to the other person;
- (ii) engage in any other unwelcome conduct of a sexual nature in relation to the other person;
- (iii) a reasonable person would anticipate that the other person would be offended, humiliated or intimidated.

Sexual harassment can include, but is not limited to:

- (i) unwelcome physical contact;
- (ii) requests for sexual favours or persistent requests for out of work social activities;
- (iii) making, orally or in writing, any offensive or demeaning comments, questions, jokes and innuendo with sexual connotations;
- (iv) making, orally or in writing, any unwelcome or uncalled for remarks or insinuations about a person's sexual activities or private life;
- (v) sending an inappropriate or sexually explicit email;
- (vi) possession and/or display of sexually explicit material including posters, photographs, reading matter, objects, pictures, screen savers.

All forms of harassment are unlawful in the course of employment and in Motorsport Australia activities.

(e) Exemptions

Certain Acts allow for some exemptions to the prohibition of discrimination, e.g. for genuine occupational requirements such as needing a full clean driver's license to meet the requirements of a position.

(f) Cyber bullying

Cyber bullying includes, but is not limited to, the following misuses of technology: harassing, teasing, intimidating or threatening another person by sending or posting inappropriate and hurtful email messages, instant messages, text messages, phone messages, digital pictures or images or web site postings (including social network sites e.g. Facebook or blogs) and is irrespective of whether the page could be viewed by the wider public or not. It can also include the sending, receiving and/or possession of naked or sexually explicit images of a person.

Individuals must also be aware that postings, comments and/or messages from individual accounts and mobile phones, whether done by the Individual or another person will remain the responsibility of the account owner.

Individuals must be aware that in certain circumstances where a crime has been committed, the Individual may also be subjected to a criminal investigation by Police. This particularly applies to 'sexting' where the image is of a person under the age of 18 years and Police will be informed immediately Motorsport Australia becomes aware of the situation.

(g) Workplace Bullying

Workplace bullying is defined as repeated, unreasonable behaviour directed toward an employee/volunteer or group of employees/volunteers (including managers and supervisors) that creates a risk to either mental or physical health or safety. Examples of behaviour that could be considered workplace bullying include:

- (i) verbal or physical abuse;
- (ii) exclusion or isolation;
- (iii) psychological harassment;
- (iv) intimidation;
- (v) assigning meaningless tasks unrelated to a person's employment;
- (vi) assigning impossible tasks;
- (vii) changing work rosters to deliberately inconvenience;
- (viii) deliberately withholding information that is necessary for effective work performance;
- (ix) spreading malicious rumours or gossip;
- (x) cyber bullying including online comments which could be seen as harassing, teasing, intimidating or threatening another person.

Under the Occupational Health and Safety laws in each State or Territory, employers and employees have key duties in relation to both workplace bullying and occupational violence. Employers must take all reasonably practicable steps to protect their employees' health, safety and welfare.

Individuals have a duty to ensure that they do not create or increase risk to another person. Individuals must cooperate with Motorsport Australia in adopting measures that prohibit workplace bullying or violence

In the case of allegations of bullying that fall outside workplace bullying and outside this Policy, Individuals should consult Motorsport Australia management for advice about resolution. Motorsport Australia could take action against a member under the Motorsport Australia Constitution or Member Protection Policy in such circumstances.

(h) Occupational Violence

Occupational violence is defined as any incident where an Individual is physically attacked or threatened with violence in the workplace. Examples of behaviour that could be considered occupational violence include:

- (i) striking, punching, kicking, scratching, biting, spitting or any other kind of direct physical contact;
- (ii) throwing objects;
- (iii) attacking with a weapon;
- (iv) pushing, shoving, tripping or kicking;
- (v) any kind of indecent physical contact.

6. Responsibilities of All

(a) Behaviour

Individuals have the obligation to foster a harassment, discrimination and bullying free work environment and ensure their behaviour:

- (i) meets an acceptable standard;
- (ii) contributes to a productive workplace environment;
- (iii) does not victimise any employee who makes a harassment or discrimination complaint;
- (iv) supports investigation surrounding a complaint.

Individuals will be liable for the outcome of any action in breach of this policy, which may include counselling, warnings, possible termination of employment and / or potential external legal action.

(b) The Individual's Responsibility

Individuals should seek advice and support from a member of Motorsport Australia's management if they are concerned about whether or not observed behaviour is in breach of this Policy. They also have the obligation to report any improper behaviour under this Policy experienced or observed to a supervisor or a member of Motorsport Australia's management.

An Individual can take the following actions:

- (i) telling the person concerned to stop the offending behaviour;
- (ii) lodging a formal complaint in writing to a member of Motorsport Australia's management;
- (iii) making a complaint under anti-discrimination legislation to their local Anti-Discrimination Commission and Human Rights and Equal Opportunity Commission.

If an Individual's manager is the accused of discrimination or harassment, they have the right to seek advice from another member of management unrelated to the situation.

The Individual is responsible for deciding whether to move any complaint to the next stage of the process and may choose not to act. However, enquirers/complainants should be made aware that in some very serious cases, in compliance with obligations under anti-discrimination or occupational health and safety legislation, Motorsport Australia may be obliged to take further action.

All forms of workplace bullying and occupational violence, including assisting or encouraging others to engage in such conduct, are prohibited and will not be condoned. This includes conduct that takes place at work related social functions. If an Individual is found to have engaged in workplace bullying or occupational violence, disciplinary action, up to and including dismissal, may be taken.

(c) **Management's Responsibility**

Every Motorsport Australia Manager is expected to protect employees, contractors, students and others in the workplace. Management must ensure that this Policy is actively pursued. This includes ensuring that Individuals are not subjected to discrimination, harassment, workplace bullying and those complainants and witnesses are not disadvantaged in any way as a result of lodging a complaint. Management has a legal responsibility to ensure that if discrimination and harassment does occur in the workplace they take firm action to stop it.

All board members, managers and supervisors at Motorsport Australia are responsible for preventing harassment, discrimination and workplace bullying in their area of responsibility. Managers or supervisors who encourage or ignore any harassment, discrimination or workplace bullying may be disciplined, demoted, dismissed or be subject to outside legal action.

A manager or supervisor must:

- (i) be a good role model — avoid any discriminatory assumptions and not engage in any behaviour that might be considered as harassment;
- (ii) make fair, non-discriminatory decisions, including decisions about recruitment, training or promotion opportunities, work allocation, salary and leave arrangements;
- (iii) make it clear to all their employees that they will not tolerate any discriminatory or harassing behaviour;
- (iv) ensure that their team's working environment is free of any discriminating material or material that may be considered harassment;
- (v) follow-up any staff behaviour changes that could indicate discrimination or harassment is occurring;

(vi) act immediately if they witness or are told about any discrimination or harassment.

(d) False Accusations

Any allegation of harassment, discrimination and /or bullying will be viewed very seriously and subject to thorough and fair scrutiny under Motorsport Australia's investigation process to establish whether or not they can be substantiated. Complainants should be aware that if another person can demonstrate an allegation was made maliciously this may expose them to the risk of defamation proceedings.

7. Implications for Non-Adherence

Any breach of this Policy may result in disciplinary action being taken by the Motorsport Australia. Disciplinary action may include but not be limited to suspension of duties or obligations or termination of employment or other arrangements with Motorsport Australia.

8. Related Rules, Policies or Procedures

- (a) Member Protection Policy
- (b) Social Media Policy
- (c) Media Policy
- (d) Code of Conduct
- (e) State OHS and Equal Opportunity Legislation
- (f) The Commonwealth legislation including Fair Work Act 2009 (Cth), Racial Discrimination Act 1975 (Cth), Sex Discrimination Act 1992 (Cth), Disability Discrimination Act 1992 (Cth), Age Discrimination Act 2004 (Cth).

9. General

- (a) The Policy Manager is the General Manager – People and Culture to whom any questions in relation to this Policy should be directed.
- (b) This Policy will be reviewed every two (2) years if not sooner.

Policy Creation Date	November, 2016
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