

HARASSMENT

POLICY &

PROCEDURES

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Purpose

This policy applies to all relationships within the Horsham Arts Council (HAC) including volunteers, members, consultants, and customers. This policy aims to:

- create a working environment which is free from harassment, and where everyone is treated with dignity, courtesy and respect;
- increase the awareness and understanding of what kind of behaviour or conduct constitutes harassment, and of the problems associated with harassment, through ongoing education and training strategies;
- work towards solution of harassment issues;
- set and maintain appropriate standards of behaviour at all times, which protect everyone from harassment;
- provide effective, fair, timely and confidential procedures based on HAC's existing complaints procedure for dealing with harassment complaints if they arise;
- ensure that HAC complies with its legal obligations concerning harassment;
- ensure nobody is victimised or disadvantaged if they report behaviour which breaches this harassment policy.

Policy

It is the policy of HAC that there is an environment in which everyone can participate without distress or interference caused by harassment, including sexual harassment.

HAC does not accept harassment of any of its members, volunteers or participants by other volunteers, members, consultants, and customers. In all situations it is the stated policy of HAC that any harassment is unacceptable and will not be tolerated in any circumstance.

Harassment behaviour may be unlawful, and as such, legal action can be taken against anyone for harassment. Harassment is not just unlawful while involved in HAC activities, this behaviour is illegal in any context related to HAC activities, including rehearsals, working bees, rehearsal weekends and performances.

Harassment

Definition Harassment is any uninvited or unwelcomed behaviour/conduct that any reasonable person would interpret as offending, humiliating or intimidating another person(s).

A person's conduct need not be intentional to constitute harassment.

Examples of harassment include:

- offensive jokes, demeaning comments, displays of offensive material;
- racially oriented verbal abuse;
- repeated irrelevant reference to a person's racial, cultural, ethnic or religious background or affiliation;
- mocking a person's physical appearance, attributes or behaviour. E.g. Making repeated reference to a person's stutter.

Harassment may be unlawful if it involves unwelcomed or offensive behaviour that relates to individual characteristics protected under law. E.g. A person's race, gender, ethnic background, religion, political affiliation, sexual preference or personal attributes

Sexual Harassment Definition

Sexual harassment may involve unwelcome sexual approaches, unwelcome requests for sexual favours or unwelcome sexual behaviour or conduct which offends, intimidates or humiliates another person. Examples of sexual harassment include:

- unwelcomed comments about a person's sex life or physical appearance;
 - suggestive behaviour such as staring or leering at a person, or parts of their body;
 - sexual jokes, comments or innuendo;
 - offensive telephone calls;
 - displaying offensive photographs, reading matter, graffiti, or objects;
 - sexual propositions or continual requests for dates;
 - making promises or threats in return for sexual favours;
 - unwelcomed physical contact such as touching or fondling;
 - stalking;
 - sexually explicit conversation;
 - touching or fiddling with another person's clothing;
 - indecent assault or rape (which are also criminal offences).
- All of the above applies to both in person and online/social media interactions.

Behaviour which is based on mutual attraction, friendship and respect is not likely to involve sexual harassment as long as the interaction is consensual, welcomed and/or reciprocated within the legal age of consent laws.

Informal complaints

Informal procedures emphasise solutions rather than factual proof or substantiation of a complaint. Informal complaints are those that can be resolved informally by the complainant or through discussion between the parties.

HAC participants who believe they are being harassed are encouraged to inform the harasser that their behaviour is offensive, unacceptable and against company policy. However, while this action is encouraged, if a HAC participant is unable to inform the harasser of this, other steps are available.

Alternatively, anyone who believes they are being harassed may choose to informally approach the Executive Producer of a show, President, Vice President, Secretary or any other member of the Committee, depending on who they feel most comfortable approaching. A request may be made for this person to speak about the allegation on their behalf to the person concerned.

Harassment issues may also be resolved through mediation or consultation.

The Harassment Investigator assists the two parties to discuss options, consider alternatives and reach a consensual agreement to the satisfaction of both parties.

Anyone harassed is encouraged to talk to the Executive Producer of a Show, President, Vice President, Secretary or any other member of the Committee, whichever they feel comfortable discussing such matters, and be assured of receiving assistance.

Such complaints will be handled confidentially.

Where issues have not been resolved through informal options they may pursue formal proceedings, or they may choose from the onset to make a formal complaint.

Keeping records of informal complaints

Ensure that where there is no admission of an allegation or formal investigation, defamatory information about an alleged harasser is not kept on file. The Secretary should be informed of all informal harassment complaints to ensure the company is not at risk of a liability complaint.

A secure and confidential record keeping system must be kept which allows for the situation where numerous complaints are received about the behaviour of the same person, or problems in the same area.

Formal complaints

Formal complaints are complaints that are put in writing to HAC and necessitate written records of the proceedings and the interviewing of other relevant parties.

Formal complaints are investigated promptly by an impartial investigator with strict adherence to the HAC harassment procedures to resolve the issue.

Keeping records of formal complaints

Where a formal complaint is substantiated based on the facts from the investigation process, records of the complaint and the action taken, including records of investigation and witness statements, are kept by the Secretary in a separate, confidential harassment file. The file is retained for a period of seven years, in a secure location with strict access limitations.

Where a complaint is inconclusive or unsubstantiated, the parties should be informed and a record of the complaint or resolution, including records of the investigation, personnel involved in the process and witness statements, kept by the Secretary for a period of seven years.

Using an external agency

To ensure impartiality it may be necessary to engage an external agency to carry out the investigation of a harassment complaint on behalf of the company. For instance, this may happen where:

- the complaint involves serious allegations of misconduct where an informal resolution to the complaint may compromise the rights of the parties;
- the complaint is against a HAC Committee Member or a senior member of the Production Team.

Investigation by an external agency may ensure the complainant or alleged harasser is not victimised or disadvantaged.

Contact with an external agency is to be made through either the President, Vice President or Secretary, as long as they are not the person accused or harassed.

A formal Investigation will consider all available evidence, including any surrounding evidence. This includes:

- supporting evidence;
- head of department/team reports;
- previous complaints about the behaviour of the alleged harasser;
- records kept by the person claiming to have been harassed;
- and if there is insufficient proof to decide whether or not the harassment occurred.

Managing complaints using principles of natural justice

The process used to manage a complaint must adhere strictly to the principles of natural justice. This means the respondent has a right to:

- know what they are accused of (specific allegations);
- know who is making the allegations;
- have a support person of their own choice present during the investigation interviews;
- fair treatment and procedures;
- not be prejudged or discriminated against;
- representation and advice throughout the process;
- not be dismissed, or involvement terminated, unfairly or otherwise treated unfairly, harshly or unreasonably, taking into account all the circumstances;

- privacy; that is, to have the matter kept confidential and on a 'need to know' basis;
- protection from defamation and malicious complaints.

Disciplinary action

Any subsequent action is intended to ensure that the harassment does not continue.

If a claim of harassment is substantiated, the matter will be considered by the Committee and will lead to disciplinary action.

Depending on the circumstances, disciplinary action may take the form of an apology, counselling, warning, suspension, and dismissal. Such action will apply to anyone found to be harassing anyone else.

Disciplinary action depends on factors such as:

- the severity and frequency of the harassment;
- whether the harasser could have been expected to know that such behaviour was a breach of policy; for example, they have previously been informed on the harassment policy;
- whether there had been any prior incidents or warnings.

Where a complaint is substantiated, all parties involved, including those people who have assisted in trying to resolve the complaint, must be re-educated on expected behaviour through an appropriate forum. The outcome of a substantiated complaint should not disadvantage the person who was harassed in any way.

Victimisation

Nobody may be threatened, victimised or disadvantaged as a result of making a harassment complaint. Where such behaviour has been demonstrated, or the complaint process has been threatened, the victimisation should be reported to the President or the Vice President.

The harassment procedures must be adhered to when a victimisation complaint is made.

Disciplinary action will be taken against anyone who victimises or retaliates against a person who has complained of harassment.

Nobody is to have restrictions placed on them regarding which complaint option they choose to use. Nor should they be threatened or subjected to any detriment as a result of their choice.

Confidentiality

The parties to a harassment complaint are responsible for ensuring, confidentiality at all times, with respect to both verbal discussions and written documentation related to the complaint.

The number of people involved in any investigation should be kept as small as possible and limited on the basis of a genuine need to know or to be involved.

The company is aware that complaint investigations are capable of affecting the reputations of those involved and aims to prevent innocent people being injured by breaches of confidentiality.

All parties to a complaint should be warned about the legal risk (defamation) associated with disclosing allegations and counter-allegations.

Vexatious complaints

Vexatious complaints are those complaints made:

- in bad faith without genuinely believing it to be true;
- motivated by ill will or malice;
- by indiscriminately broadcasting the allegations.

It is unlikely for a complaint to be defamatory if it is made in good faith and through the proper channels.

Disciplinary action will be taken against anyone who complains if there is strong evidence that the complaint was vexatious or malicious.

The role of the Harassment Investigators

Harassment Investigators are responsible for employing appropriate mediation or resolution strategies and should be sufficiently senior and skilled to do so.

Normally this would be:

- President;
- Vice- President
- Secretary.

Harassment Investigators must maintain confidentiality at all times.

Where a formal complaint is necessary, the Harassment Investigator is responsible for ensuring effective complaint procedures are followed.

Harassment Investigators should refer the investigation onto the external agency if:

- the allegations involve serious misconduct that could result in termination of involvement or membership; or
- an internal investigation would compromise the rights of the parties involved.

Harassment Investigators are responsible for:

- resolving harassment issues between the parties;
- recommending disciplinary action;
- co-ordinating remedial activities where necessary.

Disciplinary recommendations must be made in consultation with the Committee.

The same person should not mediate or conciliate a case and then conduct a formal investigation. The two processes should be conducted by different people.

Responsibilities

Members, Participants, Volunteers and Consultants

It is their responsibility to:

- respect the right of their fellow members, participants, volunteers and consultants, including the right to participate in an environment free of harassment, and to comply with this policy;
- maintain confidentiality if they provide information during the investigation of a complaint. The spreading of gossip or rumours by anyone may expose them to a defamation action;
- not make vexatious or malicious allegations of harassment.

President, Vice President, Secretary, Committee Members and Functional Heads

It is their responsibility to:

- successfully apply this policy, ensuring that ongoing education and training occurs for everyone involved with HAC.
- respond to all incidents or accusations of harassment. Where necessary, the harassment complaint or incident should be forwarded to the nominated contact officer;
- ensure that any action and/or behaviour which constitutes harassment that is brought to their attention, regardless of how, is addressed in line with this policy;
- ensure that everyone within their area of responsibility understand this policy, and to monitor their areas to ensure they are free from harassment as far as practicable;
- conduct further training/awareness sessions and monitor the situation following the resolution of a complaint;
- model appropriate behaviour themselves.

Secretary

It is the responsibility of the Secretary to:

- implement, provide and record ongoing training, guidance, and assistance related to this policy;
- maintain records of harassment complaints, including their resolution, and follow up action;
- follow up action resulting from the investigation, including disciplinary action;
- maintain confidentiality at all times.

Anyone has the right to lodge a complaint with the State Equal Opportunity Authority at any time.