

# Harassment, Discrimination & Bullying



## Policy BA-P002

### 1. Applicability

This document is a policy of BURN Arts, Inc. (“**Association**”).

This document applies to all members of the Association (“**Members**”) and where reasonable, serves as a guide to individuals attending our events, including Modifyre, and individuals accessing our resources at any of our event venues, including East Brisbane Bowls Club and Hackerspace Brisbane (“**Participants**”).

### 2. Purpose

To outline rights and responsibilities of all Members and Participants in relation to ensuring that our community is free of harassment, discrimination and bullying.

### 3. Overview

Our Association values and respects diversity and the importance of appropriate conduct by all of its members and members of the Community. We value the importance of integrity, respect, trust, support and caring for and being honest with each other.

Harassment, discrimination, bullying and victimisation have no place in our community’s environment. As a Member or Participant you have the right to expect an environment that is free of harassment, unlawful discrimination and bullying. The Association is committed to ensuring that the environment is free from these forms of behaviour.

This document outlines:

- rights and responsibilities of management as well Members and Participants;
- what constitutes unreasonable behaviour, including harassment, discrimination and bullying;
- how to get assistance, raise a concern or make a complaint; and
- how issues & complaints are handled

Our approach incorporates:

- providing an effective complaints procedure which enables complaints to be treated in a sensitive, fair, timely and confidential manner;
- encouraging the reporting of behaviour which breaches this document; and
- promoting appropriate standards of conduct at all times.

Any reports of unlawful discrimination, harassment or bullying will be investigated impartially, promptly and thoroughly and will be treated with the appropriate confidentiality.

For the purposes of this document, ‘work’ or ‘workplace’ relates to any activities conducted directly in relation to the Association or any event or project that it manages.

### 4. Rights

Every Member and Participant has the right to expect:

- to work in an environment that is committed to their physical and mental wellbeing, and is free of harassment, discrimination and bullying;
- that a genuine complaint relating to these issues will be handled quickly, sensitively, thoroughly, impartially and with appropriate confidentiality; and
- that if they make a complaint in good faith about a matter relating to harassment, discrimination or bullying, they will not be subjected to any form of victimisation or retribution.

Someone about whom a complaint is made has the right to expect that they will be provided with a fair opportunity to respond to the complaint before any decision is made.

## 5. Responsibilities

Every Member and Participant is responsible for ensuring that:

- their own conduct is not of a discriminatory, harassing or bullying nature;
- their own conduct does not victimise another person who has (or may have) made a complaint or assisted with a complaint;
- if they feel they are the target of harassment, discrimination or bullying, they can seek to have the matter resolved in confidence with the person allegedly behaving in this way or they can discuss it in confidence with the Chair of the Association;
- any behaviour which constitutes discrimination, harassment or bullying is brought to the attention of the Chair of the Association;
- any complaint made by them, or others, is kept confidential; and
- only legitimate complaints are made.

## 6. Unreasonable behaviour

### 6.1 What is unlawful discrimination?

Unlawful discrimination may occur when a person is treated less favourably than another on grounds such as sex, race, religion, disability/impairment, age, physical features, political beliefs, industrial activity, gender identity, marital or relationship status, sexual orientation, intersex status, gender expression, pregnancy (actual or potential), breastfeeding, family responsibilities or parental or carer status.

Unlawful discrimination may occur when a decision in relation to any aspect of the workplace is not based on merit or a person's competence or experience, but rather is based on an irrelevant consideration prohibited by legislation. Unlawful discrimination can take two forms:

- *Direct Discrimination* - Generally, direct discrimination occurs when a person treats or proposes to treat another person less favourably because of their sex, race, religion or other irrelevant consideration.
- *Indirect Discrimination* - Generally, indirect discrimination occurs where policies and practices, which appear on their face to be non-discriminatory, operate in such a way so as to unreasonably disadvantage one person or group of people (because of an irrelevant consideration) when compared with another.

### 6.2 What is harassment?

Harassment is any form of behaviour which:

- is unwelcome;
- causes a hostile or uncomfortable workplace by causing offence to, or humiliation or intimidation of, another person; and
- A reasonable person would have anticipated would cause offence, humiliation or intimidation.
- takes advantage of one's social or leadership status within the organisation

Examples of harassment include:

- distributing offensive material such as racist posters;
- belittling comments about a person's gender, sexual orientation, race or religion; and
- Bullying and intimidation.

One type of harassment is sexual harassment. Sexual harassment is any unwanted, unwelcome or uninvited behaviour of a sexual nature which makes a person feel humiliated, intimidated or offended, in circumstances where a reasonable person, having regard to all the circumstances, would have anticipated that the person would feel that way.

Examples of sexual harassment include:

- uninvited touching;
- repeated invitations to go out after prior refusal or persistent questions or insinuations about a person's private life;
- displays of sexually graphic material including posters or pin ups; and
- Sex-based jokes or insults.

Sexual harassment is not sexual attraction or friendship which is invited, mutual, consensual and reciprocated.

### **6.3 What is bullying?**

Workplace bullying is repeated, unreasonable behaviour directed towards our people that has the effect of humiliating, intimidating, offending, degrading, insulting, undermining or threatening the victim.

In this policy, 'unreasonable behaviour' refers to behaviour that a reasonable person, having regard to all the circumstances, would expect to humiliate, intimidate, offend, degrade, insult, undermine or threaten a person, whether in private or in front of co-workers or clients or by social media. It may include physical and/or psychological behaviour.

'Repeated unreasonable behaviour' refers to the persistent nature of the behaviour. Behaviour is considered repeated if an established pattern can be identified.

One-off incidents of "unreasonable behaviour" are generally unlikely to be workplace bullying under this policy although this behaviour, even if isolated, is not condoned and still breaches our Code of Conduct. If one off unreasonable behaviour is exhibited, it should be addressed by discussion and apology.

### **6.4 What is victimisation?**

Victimisation is treating a person unfairly because they have made a complaint (or are suspected of making a complaint), sought advice or made an enquiry, or are witness to a complaint.

### **6.5 Examples of "unreasonable behaviour"**

The following types of behaviour could be considered unreasonable behaviour. If they are repeated in the sense described above, then they would amount to workplace bullying and be unacceptable under this policy:

- aggressive or frightening behaviour such as slamming doors, swearing at, shouting at, intimidating words or conduct, or threatening violence;
- deliberately excluding, ignoring or isolating people;
- publicly belittling someone, their opinions or dismissing that person's contribution without reason; unreasonable baiting or teasing; intimidation, humiliation or ridicule;
- abusive, belittling or intimidating phone calls, emails, text messages, comments, social media contact (e.g. Facebook, Twitter, messaging applications) notes directed to the intended recipient;
- Deliberately withholding information vital for effective performance of assigned duties.

This list is not exhaustive. Other types of behaviour may also constitute unreasonable behaviour.

## **7. How to get assistance, raise a concern or make a complaint**

Members or Participants that believe they are the subject of discrimination, harassment or bullying should take prompt and firm action. Where possible, the Member or Participant should immediately make the perceived harasser aware that their behaviour is offensive, unwelcomed or unacceptable.

If the perceived unacceptable behaviour continues, or if the Member or Participant feels unable to speak to the person, they should contact either their team lead or the Chair of the Association.

## **8. How issues are handled**

### **8.1 Raising concerns and complaints procedure**

Resolution of complaints can be either through an informal or formal procedure. A Member or Participant can seek initial confidential advice from their team lead or the Chair of the Association to discuss their options.

In accordance with the Association's obligation at law to provide an environment that is free from harassment, unlawful discrimination and bullying, the organisation may decide that if a matter is sufficiently serious it may require further investigation or action, notwithstanding the desire of the Member or Participant member making the complaint. If this is the case it will be discussed first with the parties involved.

### **8.2 Informal complaints procedure**

Informal procedures are focussed on resolution of the issue rather than factual proof or substantiation of a complaint. They can include the following:

The individual who is of the view that they have been harassed or discriminated against or bullied ("**Complainant**") may want to deal with the situation themselves but may seek advice on possible strategies from the Chair of the Association or a member of the Management Committee.

Anyone on the Management Committee, or in a leadership capacity within the Association, who observes unacceptable conduct occurring may take the matter to the Chair of the Association even though no complaint has been made.

Informal action is usually appropriate where:

- the allegations are of a less serious nature but the person subjected to the behaviour wants it to cease; or
- the people involved are likely to have ongoing contact with one another and the Complainant wishes to resolve the issue informally so the working relationship can be more easily sustained.

Members and Participants are not required to exhaust informal attempts at resolution before formal action commences.

All Members and Participants have the right to formalise their complaint or approach an external agency, or the relevant State based Commission, at any time.

### **8.3 Formal complaints procedure**

Formal procedures focus on proving whether a complaint is substantiated. Formal procedures usually involve:

- referring a complaint to the Chair of the Association;
- investigation of the allegations by the Resolution Committee, including (where appropriate) interviews with the relevant Members or Participants and conveying of the allegations to the relevant individual, who is given the opportunity to respond;
- application of the principles of natural justice;
- making a finding as to whether the harassment, discrimination or bullying occurred;
- recording/documenting the results of any investigation and submitting a report with a recommended course of action to the Chair of the Association;
- implementation of an appropriate outcome which may include disciplinary action in cases of serious non-compliance with this document, counselling (include referral to external counseling professionals), training, mediation or changes to arrangements to address the circumstances which gave rise to the complaint.

Formal procedures are usually appropriate where:

- informal attempts at resolution have failed;
- the Complainant has been victimised, or the complaint involves serious allegations of misconduct and informal resolution could compromise the rights of the parties and/or obligations of the Association;
- the allegations are denied, the Complainant wishes to proceed and investigation is required to substantiate the complaint; or
- the Complainant wishes to make a formal complaint from the outset.

Any counselling that is provided internally should not be treated as professional advice.

### **8.4 Who handles a formal complaint**

As soon as a formal complaint has been lodged, the Management Committee will impanel a Resolution Committee to conduct an investigation into the complaint. This committee will comprise of four individuals, including at least one member of the Management Committee, the Regional Contact for Brisbane, and one general member.

### **8.5 Dealing with criminal conduct procedure**

Some severe forms of bullying or harassment may constitute criminal conduct.

While the Association is committed to treating most complaints as far as possible at an organisational level, this type of conduct may be deemed unsuitable or internal resolution. Complaints of a severe nature should be dealt with by the appropriate authority or regulatory body.

All Members and Participants are advised to seek immediate police support or intervention where it is appropriate to do so. It is not the obligation of the Association to report these complaints to the police on behalf of the Complainant.

## 9. Confidentiality / storage of notes, files, documents

All details of any complaints made (advice, formal and informal) and related documentation will be treated confidentially. Details will only be available to the person responsible for managing such complaints and other members of the Resolution Committee that may be required to conduct an investigation into the complaint and implement appropriate action.

Information will be recorded securely for up to seven years with information accessible only by the person responsible for managing such complaints and reporting of same.

## 10. Related documents

- BA-P001 – Code of Conduct
- BA-P005 – Eviction

## 11. Contact

For further information, please contact:

Chair

BURN Arts, Inc.

Email: [ang@modifyre.org](mailto:ang@modifyre.org)

## 12. Version control

Version	Date	Comments
V2.00	16 January 2019	Version 2