



# THE ORDER OF AUSTRALIA ASSOCIATION

## G9 DISCRIMINATION AND HARASSMENT INCLUDING WORKPLACE DISCRIMINATION AND HARASSMENT POLICY

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### Authorisation

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National Secretary

## **1. INTRODUCTION**

### **1.1 Overview**

Consistent with its objects under its Constitution, the Order of Australia Association (the Association) is committed to providing a safe, flexible and respectful environment for its officers, members and members of the public free from all forms of discrimination and harassment.

### **1.2 Purpose**

The purpose of this document is to set out the Policy and Procedures governing management of discrimination and harassment in the Association.

### **1.3 Applicability**

The Policy and Procedures outlined in this document apply to all officers and members of the Association. No officer or member of the Association is exempt from the policy.

The Policy applies to all aspects of employment, recruitment and selection; conditions and benefits; training and promotion; task allocation; shifts; hours, leave arrangements; workload; equipment and transport.

It applies on-site, off-site and during afterhours work; at meetings; at work-related and member-focused social functions; and at conferences -wherever and whenever officers and members of the Association may be in the course of Association activities.

It applies to the way that officers and members of the Association treat each other and members of the public in the course of Association activities.

### **1.4 Legislative/Regulatory Requirements**

Discrimination and harassment are unlawful under the following legislation:

- *Sex Discrimination Act 1984 (Cth)*
- *Racial Discrimination Act 1975 (Cth)*
- *Disability Discrimination Act 1992 (Cth)*
- *Age Discrimination Act 2004 (Cth)*
- *Australian Human Rights Commission Act 1986 (Cth).*

Relevant State and Territory Legislation may also apply.

### **1.5 Definitions**

<b>Bullying</b>	A form of harassment: repeated and intentional verbal, physical, social or psychological abuse against a person or group of people to cause distress and risk to their wellbeing <sup>1</sup> , including by email, SMS or social media.
<b>Discrimination</b>	Treating a person less favourably, or not giving them the same opportunities as others in a similar situation, because of their background or certain personal characteristics (direct); or making an unreasonable policy or rule that applies to everyone but has the effect of disadvantaging some people because of a personal characteristic they share (indirect). <sup>2</sup>
<b>Gossip</b>	Gossip is communicating with officers or members of the Association about any complaint or harassment other than in the course of authorised Association duties, including by talking, email, SMS or social media.
<b>Harassment</b>	Treating a person less favourably than others because of their background or certain personal characteristics. <sup>3</sup>

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<sup>1</sup> Australian Human Rights Commission (AHRC), <https://www.humanrights.gov.au/what-bullying-violence-harassment-and-bullying-fact-sheet>.

<sup>2</sup> AHRC, <https://www.humanrights.gov.au/quick-guide/12030>.

<sup>3</sup> AHRC, <https://www.humanrights.gov.au/quick-guide/12040>

<b>Officer of the Association</b>	A director of the Association, a member of a Branch or Regional Group Committee, a staff member, or a volunteer acting on behalf of the Association.
<b>Sexual Harassment</b>	A specific and serious form of harassment: unwanted or unwelcome sexual behavior where a reasonable person would have anticipated the possibility that the person harassed would feel offended, humiliated or intimidated. <sup>4</sup>
<b>Victimisation</b>	Subjecting or threatening to subject a person to some form of detriment because they have lodged or propose to lodge a complaint of discrimination or harassment, provided information to an internal investigation or external agency, attended a conciliation conference, reasonably asserted their rights or supported someone else's rights under equal opportunity law, or made an allegation that a person has acted unlawfully under Commonwealth anti-discrimination laws. <sup>5</sup>

## **2. POLICY STATEMENT**

Officers and members of the Association are required to treat each other and members of the public with dignity, courtesy and respect.

Officers and members of the Association found to have engaged in discrimination or harassment might be counseled or warned. Serious or repeated breaches might lead to formal action up to and including dismissal (in the case of a staff member) or expulsion (in the case of a member of the Association).<sup>6</sup> If appropriate, serious breaches may be referred for police investigation.

All recruitment and job selection decisions at the Association will be based on merit regardless of irrelevant personal characteristics.

The Association will establish and maintain a robust process for resolving discrimination and harassment issues and support any officer, member or member of the public who believes they have been discriminated against or harassed in the course of Association activities.

## **3. RIGHTS AND RESPONSIBILITIES**

### **3.1 Rights**

All officers and members of the Association are entitled to:

- recruitment and job selection decisions based on merit and not affected by irrelevant personal characteristics;
- work or participate in Association activities free from discrimination and harassment;
- raise issues or make an enquiry or complaint in a reasonable and respectful manner without being victimized; and
- reasonable flexibility in working arrangements, especially where needed to accommodate their family responsibilities, disability, religious belief or culture.

Members of the public are entitled to engage in Association activities in an environment that is free of harassment or discrimination.

### **3.2 Responsibilities**

All officers and members of the Association must:

- follow the standards of behavior outlined in this Policy;
- offer support to people who experience discrimination or harassment, including providing information about how to make a complaint;
- avoid gossip and respect the confidentiality of complaint resolution procedures; and
- treat everyone with dignity, courtesy and respect.

### **3.3 Additional responsibilities of the Board, Branch and Regional Group Committees.**

<sup>4</sup> AHRC, <https://www.humanrights.gov.au/quick-guide/12040>

<sup>5</sup> AHRC, <https://www.humanrights.gov.au/quick-guide/12108>.

<sup>6</sup> Under the By-laws of the Order of Australia Association para 5.4

The Board is responsible for ensuring that a Discrimination and Harassment Policy is in place and appropriate compliance.

The Board and Branch and Regional Group Committees must also:

- model appropriate standards of behaviour;
- take steps to educate and make staff and members aware of their obligations under this Policy and the law;
- intervene quickly and appropriately when they become aware of inappropriate behaviour;
- act fairly to resolve issues and enforce behavioural standards, making sure relevant parties are heard;
- help staff and members resolve complaints informally;
- refer formal complaints about breaches of this Policy to the appropriate Complaint Handling Officer for investigation; and
- ensure staff and members who raise an issue or make a complaint are not victimised.

#### **4. PROCEDURES**

The Order of Australia Association will meet its responsibility to provide an environment free from all forms of discrimination and harassment through a combination of education and providing appropriate mechanisms for resolution of issues.

##### **4.1 Education**

The Association's G9-Discrimination and Harassment Policy that includes Workplace Discrimination and Harassment Policy will be maintained and displayed on its website under the Policies tab. The Policy will be drawn to the attention of members annually in *The Order*.

In developing their understanding of discrimination and harassment, officers and members of the Association may also wish to draw on the resources available on the Australian Human Rights Commission website: <https://www.humanrights.gov.au>.

Further to the definitions in paragraph 1.5, officers and members of the Association should be guided by the following explanation.

##### **Discrimination**

Discrimination can occur either directly or indirectly. Examples include:

- a potential Branch Nominated Director is not elected by a Branch Committee because of his/her race (direct discrimination); and
- the Board decides that it will not distribute *The Order* in hard copy outside capital cities to save on postage (indirect discrimination).

Personal characteristics that are protected under Commonwealth discrimination law include:

- a disability, disease or injury, including a work-related injury;
- parental status or status as a carer;
- race, colour, descent, national origin or ethnic background;
- age, whether too young or too old, or because of age in general;
- sex;
- industrial activity, including being a member of an industrial organisation like a trade union or taking part in industrial activity, or deciding not to join a union;
- religion;
- pregnancy and breastfeeding;
- sexual orientation, intersex status or gender identity, including gay, lesbian, bisexual, transsexual, transgender, queer and heterosexual;
- marital status, whether married, divorced, unmarried or in a de facto relationship or same sex relationship;
- political opinion;
- social origin;
- medical record; and
- an association with a person who has, or is assumed to have, one of these characteristics, such as being the parent of a child with a disability.

It is also illegal to discriminate against a person because it is assumed they have a personal characteristic or may have it at some time in the future.

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### **Bullying**

Bullying can take many forms, including jokes, teasing, nicknames, emails, pictures, text messages, social isolation or ignoring people, or unfair work practices.

Under Commonwealth law, this behaviour does not have to be repeated to be harassment – it may be a one-off event.

Behaviours that may constitute bullying include:

- sarcasm and other forms of demeaning behavior;
- threats, abuse or shouting;
- coercion;
- isolation;
- inappropriate blaming;
- ganging up;
- constant unconstructive criticism;
- deliberately withholding information or equipment that a person needs to do their job or access their entitlements; and
- unreasonable refusal of requests for leave, training or other workplace benefits.

### **Sexual harassment**

Sexual harassment can be physical, spoken or written. It can include:

- comments about a person's private life or the way they look;
- sexually suggestive behavior, such as leering or staring;
- brushing up against someone, touching, fondling or hugging;
- sexually suggestive comments or jokes;
- displaying offensive screen savers, photos, calendars or objects;
- repeated requests to go out;
- requests for sex;
- sexually explicit posts on social networking sites;
- insults or taunts of a sexual nature;
- intrusive questions or statements about a person's private life;
- sending sexually explicit emails or text messages;
- inappropriate advances on social networking sites;
- accessing sexually explicit internet sites; and
- behavior that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

Just because someone does not object to inappropriate behaviour at the time does not mean that they are consenting to the behaviour.

Sexual harassment at Association activities includes when it happens on-site, off-site and during afterhours work; at work-related and member-focused social functions; and at conferences - wherever and whenever officers and members of the Association may be in the course of Association activities.

All officers and members of the Association have the same rights and responsibilities in relation to sexual harassment.

A single incident is enough to constitute sexual harassment – it does not have to be repeated.

All incidents of sexual harassment – no matter how small or how large or who is involved – require officers of the Association to respond quickly and appropriately.

The Association recognises that comments and behaviour that do not offend one person can offend another. All officers and members must therefore respect other people's limits.

### **Victimisation**

Further to the definition in paragraph 1.5, it is also victimisation to threaten someone (such as a witness) who may be involved in investigating an equal opportunity concern or complaint.

Victimisation is a very serious breach of this Policy.

### **Gossip**

It is unacceptable for officers and members of the Association to talk or otherwise communicate with other officers or members about any complaint of discrimination or harassment other than in the formal course of their Association duties.

Breaching the confidentiality of a formal complaint investigation or inappropriately disclosing personal information obtained in the course of Association duties is a serious breach of this Policy.

### **Merit**

Recruitment and job/position selection decisions will be based on merit – the skills and abilities of the candidate as measured against inherent requirements of the position – regardless of irrelevant personal characteristics.

It is unacceptable and may be against the law to ask job or position candidates questions, or to in any other way seek information, about their personal characteristics, unless this can be shown to be directly relevant to a genuine requirement of the position.

## **4.2 Resolving Issues**

The Association strongly encourages any officer, member or member of the public who believes they have been discriminated against or harassed in the course of Association activities to take action by making a complaint.

In the first instance, complaints should be directed as follows:

- if the complaint is about a member of the public, a member of the Association or an officer of the Association at Branch or Regional Group level – the Branch or Regional Group Secretary, as appropriate; or
- if the complaint is about a member of staff or a Board member – the National Secretary.

People who do not feel safe or confident to take such action may seek assistance from the National Chairman, Branch Chairman or Regional Group Convener as appropriate.

The range of potential instances of discrimination and harassment is such that it is difficult to prescribe a definitive process for dealing with all complaints. In particular, much will depend on the wishes of the complainant. An outline procedure that describes the broad approach to be used in the Association is at Annex A.

The Association may appoint qualified mediators and counsellors, all volunteers and themselves members of the Association, whose assistance will be sought should this be considered appropriate. The National Chairman may appoint an external qualified mediator and counsellor to assist in the mediation of the claim if required.

Officers of the Association dealing with complaints of discrimination and harassment must ensure that appropriate records are kept for a period of seven (7) years, being particularly mindful of confidentiality requirements.

## **5. Related Documents**

This Policy is to be read in conjunction with:

- Constitution of the Order of Australia Association
- Bylaws of the Order of Australia Association
- G7 Work Health and Safety
- G8 Privacy Policy

**OUTLINE PROCEDURE FOR DEALING WITH COMPLAINTS**