

Standard 4: Anti-Discrimination and Harassment

Discrimination and sexual harassment in the workplace is unacceptable and unlawful, such behaviour can also be dealt with under the NSW Greyhound Racing Rules.

This standard will assist NSW greyhound racing clubs to adopt a documented Anti-Discrimination and Harassment Policy. The standard defines what constitutes discrimination and sexual harassment, and outlines the responsibilities of clubs and all individuals who participate in the sport of greyhound racing in NSW. It also outlines a risk management approach for overseeing anti-discrimination laws within NSW greyhound racing clubs, with a view to avoiding the associated costs of discrimination within the workplace (e.g. legal costs, compensation, absenteeism and low morale).

Templates

An Anti-Discrimination and Harassment Policy template is provided at **ATTACHMENT A**.

Tools and Assistance

Background information on discrimination and related issues, as well as contact details for specialised advice and counselling services, is provided in this standard.

What GRNSW Requires From Your Club

Clubs must have an Anti-Discrimination and Harassment Policy in place that, at a minimum, includes the best practice standards outlined in the policy template at **ATTACHMENT A**. Clubs must provide GRNSW with a copy of their Anti-Discrimination and Harassment Policy with evidence of Committee endorsement and adoption of the Policy (copy of resolution from Committee meeting minutes). In the future, clubs are only required to provide a copy of their Policy to GRNSW when it has been updated or changed.

In addition, all clubs must display a copy of their Anti-Discrimination and Harassment Policy in full view of all participants and within their kennel house.



Anti-Discrimination and Harassment

Background

Over the past 30 years the Commonwealth Government and the state and territory governments have introduced anti-discrimination law to help protect people from discrimination and harassment.

The following laws operate at a federal level and the Australian Human Rights Commission has statutory responsibilities under them:

- *Age Discrimination Act 2004;*
- *Australian Human Rights Commission Act 1986;*
- *Disability Discrimination Act 1992;*
- *Racial Discrimination Act 1975; and*
- *Sex Discrimination Act 1984.*

Commonwealth and the state and territory laws generally cover the same areas of discrimination. However, there are some 'gaps' in the protection that is offered between different states and territories and at the Commonwealth level. In addition, there are circumstances where only the Commonwealth law would apply or where only the state law would apply.

In New South Wales (NSW), the NSW Anti-Discrimination Board administers the NSW *Anti-Discrimination Act 1977*. It promotes anti-discrimination and equal opportunity principles and policies throughout NSW through the handling of complaints under the Act, informing the people of NSW about their rights and responsibilities under anti-discrimination laws and advising the government on discrimination matters.

Introduction

Discrimination and sexual harassment are unacceptable and unlawful forms of behaviour. All people have the right to work in an environment that is free of sexual harassment, victimisation and discrimination.

GRNSW will not tolerate sexual harassment and discrimination in the sport of greyhound racing in NSW. GRNSW Stewards will enforce the Greyhound Racing Rules and will refer complaints to appropriate authorities which may include the police where appropriate. GRNSW Stewards also have the power to suspend or disqualify the licence or registration of any person in the NSW greyhound racing industry who acts in contravention of the Acts outlined above.

What is Discrimination?

Discrimination occurs when someone is treated unfairly or badly compared to others, often because they are seen as different. It is against the law to discriminate against people because of:

- Gender (whether male or female);
- Marital or parental status;
- Race;
- Age;



- Impairment (whether physical, intellectual, psychiatric or mental disability, injury or illness, including whether they are HIV+ or use a guide dog, wheelchair or some other remedial device);
- Religion;
- Political belief or activity;
- Trade union activity;
- Lawful sexual activity (whether they are gay, lesbian, heterosexual or bisexual); and
- Pregnancy or breastfeeding.

It is also against the law to discriminate against a person because they associate with or are related to someone who has any of these attributes or personal characteristics.

Unlike sexual harassment, which is against the law in all circumstances, discrimination is only against the law if it covers one or more of the grounds listed above and it occurs in any of the following areas:

- Employment;
- Accommodation;
- Education;
- Provision of goods and services;
- Access to places and vehicles;
- Club membership and affairs;
- Application forms;
- Advertising;
- Superannuation and insurance; and
- Sport.

In addition it is important to note that it is irrelevant at law whether or not the inappropriate behaviour was intended. All who participate in the sport of greyhound racing in NSW must understand that it is the person being subjected to the behaviour, who determines whether the behaviour is welcome or unwelcome.

What is Sexual Harassment?

Sexual harassment is any unwanted, unwelcome or uninvited behaviour of a sexual nature that makes a person feel humiliated, intimidated or offended.

Sexual harassment can take many different forms and may include physical contact, verbal comments, jokes, propositions, the display of offensive material or other behaviour, which creates a sexually hostile working environment. In today's society electronic forms of harassment via social media channels such as Twitter and Facebook are becoming more common.

Examples of sexual harassment include:

- Uninvited touching, uninvited kisses or embraces;
- Smutty jokes or comments;
- Making promises or threats in return for sexual favours;



- Displays of sexually graphic material including posters, pinups, cartoons, graffiti or messages left on notice boards, desks or common areas;
- Repeated invitations to go out after prior refusal;
- “Flashing” or sexual gestures, sex-based insults, taunts, teasing or name-calling, staring or leering at a person or at parts of their body;
- Sexually explicit conversation;
- Persistent questions or insinuations about a person’s private life;
- Offensive phone calls, SMS messages, letters, e-mail messages or computer screen savers;
- Stalking, leering, patting, pinching or unnecessary familiarity; and
- Offensive comments on physical appearance, dress or private life.

Sexual harassment can involve behaviour that would also be an offence under criminal law. For example, physical assault, indecent exposure, sexual assault, stalking or obscene communication.

Sexual harassment is **not** behaviour that is based on mutual attraction, friendship and respect. If the interaction is consensual, welcome and reciprocated it is not sexual harassment.

Who can Sexual Harassment Affect?

Everybody who is engaged in activities related to greyhound racing in NSW must be aware of their responsibility and rights with regards to discrimination, including sexual harassment. Everybody includes: employers; full-time, part-time and casual employees; contractors; volunteers; participants; licensed persons; trainees; and, students who are engaged in any activity within the greyhound racing industry in NSW.

What Impact can Sexual Harassment Have?

Sexual harassment can have a serious and damaging effect on someone’s life. It can:

- Affect work performance and opportunities;
- Create a hostile or unpleasant work environment;
- Make someone insecure and fearful; and
- Affect an individual’s future career opportunities.



When and Where can Sexual Harassment Happen?

Sexual harassment is not just unlawful during working hours or in the workplace itself, such behaviour is illegal in any work-related context. Sexual harassment in employment is prohibited in the following circumstances:

- Recruitment and selection – for example, during job interviews;
- The course of employment – for example, at the workplace, during working hours, at work-related activities such as a race meeting, training courses, conferences, field trips, work functions and office Christmas parties;
- Termination of employment – for example, where an employee is dismissed for objecting to sexual advances or resigns because of intolerable sexual harassment; and
- Any other circumstance that could arise in the context of relationships such as sexual harassment of an employee by a fellow employee, regardless of when or where it occurs.

What Rights do People Have?

- Everyone has the right to work in an environment which is free of harassment;
- Sexual harassment is against the law;
- Sexual harassment is against the NSW Greyhound Racing Rules; and
- Everyone has the right to access confidential complaint procedures.

What do the Rules of Racing Say?

Stewards are empowered to investigate allegations of sexual harassment and to lay charges and impose penalties under the following NSW Greyhound Racing Rules:

R 86 A person (including an official) shall be guilty of an offence if the person -

(O) has, in relation to a greyhound or greyhound racing, done a thing, or omitted to do a thing, which, in the opinion of the Stewards or the Controlling Body, as the case may be, is negligent, dishonest, corrupt, fraudulent or improper, or constitutes misconduct;

R 95 (8) The Controlling Body may impose on a person any 1 or more of the penalties referred to in sub-rule (1) if -

(a) the person has been convicted of an offence by any court and the Controlling Body is satisfied that -

(i) the nature of the offence is such that the person's continued participation or association with greyhound racing would be detrimental to the proper control and regulation of greyhound racing; or

(ii) the continued enjoyment of the rights and privileges conferred by the person would be prejudicial or contrary to the interests of the Controlling Body.



Who is Responsible?

Are individual persons responsible? YES.

- Persons, including employers, employees, volunteers and contractors are personally liable for their own acts of sexual harassment;
- A person is personally liable for any act of victimisation; and
- A person is personally liable for causing, instructing, inducing, aiding or permitting another to discriminate (including discrimination involving sexual harassment).

Are employers responsible? YES.

- An employer is vicariously liable for acts of harassment committed by employees or agents in connection with their duties unless “all reasonable steps” were taken by the employer to prevent harassment occurring;
- Lack of awareness that an employee or agent sexually harassed another will not discharge an employer’s vicarious liability; and
- Vicarious liability is an employer’s legal responsibility for wrongs committed by employees in the course of work.

What are Employees’ Responsibilities?

- Employees should be aware of and understand both their rights and their responsibilities. This means they should also be aware of, and comfortable with, all available avenues for complaint and support;
- An employee must not engage in any act of victimisation; and
- An employee must not cause, instruct, induce, aid or permit another person to commit an act of sexual harassment.

Further, all employees have a responsibility to:

- Comply with the club’s Anti-Discrimination and Harassment Policy;
- Offer support to anyone who is being harassed and let them know where they can get help and advice (they should not, however, approach the harasser themselves); and
- Maintain complete confidentiality if they provide information during the investigation of a complaint. Employees should be warned that spreading gossip or rumours may expose them to a defamation action.

What are Employers’ Responsibilities?

Every employer, regardless of business size, is legally required to take all reasonable steps to prevent sexual harassment if they wish to avoid liability.

- There is no exemption in the Sex Discrimination Act for small business. Employers in all small businesses, whatever the size, will be vicariously liable for acts of sexual harassment committed by employees unless all reasonable steps were taken to prevent it occurring;
- Allowing sexual harassment to remain unchecked can expose employers to the cost, inconvenience and damaging publicity of legal proceedings and compensation claims;
- Employers are not only liable for their own acts of sexual harassment. They can also be held legally responsible for sexual harassment by their employees unless all reasonable precautions were taken to prevent it occurring. Employers must actively implement precautionary measures to minimise the risk of sexual harassment occurring; and



- It is recommended that employers, including clubs, associations, partnerships, syndicates or other groups develop and promote a written policy on Anti-Discrimination, which includes both internal and external complaint procedures. When developing a strategy to address sexual harassment, it is recommended that employers consult with relevant parties including employees, unions, employer organisations, industry and professional associations, the Human Rights and Equal Opportunity Commission and/or state and territory anti-discrimination agencies.

What can People do if they are Being Harassed?

- They should not ignore the harassment (ignoring the behaviour could be taken as tacit consent);
- Inform the offender that the behaviour is offensive, unacceptable and against the Greyhound Racing Rules; and
- Seek assistance in having the behaviour stopped. This may include making an official report or a complaint.

How Does Someone Make a Complaint?

Seek a complaint channel that you both trust and feel comfortable with. First consult your employer's Anti-Discrimination and Harassment Policy and investigate internal complaint channels.

External complaint channels include:

- GRNSW Stewards and Executive;
- NSW Anti-Discrimination Board;
- Human Rights and Equal Opportunities Commission;
- Equal Opportunity Commission; and
- Other centres such as the Rape Crisis Centre.

What will Happen if a Complaint or Report is Made?

Any complaints or reports of discrimination will be treated quickly, seriously and sympathetically. They will be investigated thoroughly, impartially and confidentially. Club Managers, Secretaries and GRNSW Stewards must act immediately on any reports of discrimination. Employees and/or industry participants will not be disadvantaged in their employment conditions or opportunities as a result of lodging a complaint.

What will Happen to the Person Against who the Complaint was Made?

Appropriate action will be taken against anyone including employees, volunteers and contractors who are found to have harassed a co-worker or any other person during the course of their employment or contract.



Who can People Contact?

Anti-Discrimination Board

The Anti-Discrimination Board can provide information and confidential counselling services.

Toll Free 1800 670 812
Sydney (02) 9268 5544

NSW Sexual Assault Services (02) 9515 9040

Rape Crisis Centre 1800 424 017

This service provides 24 hour telephone counseling.

Women's Information & Referral Service 1800 817 227

This service has an extensive database of community contact names and numbers.

Lifeline 131 114

This service provides out of hours support.



<insert club name>

Anti-Discrimination & Harassment Policy

Introduction

The <insert club name> is an equal opportunity employer with an understanding of the intent of equal opportunity and anti-discrimination laws.

Under federal and state legislation, discrimination in employment is against the law. The <insert club name> will not tolerate any form of discrimination or harassment. All employees, volunteers and contractors have the right to enjoy an environment free of discrimination and harassment.

Discrimination undermines proper working relationships and may cause low morale, stress related illness, absenteeism or resignations. All employees at all levels are responsible for adherence to this Policy.

Definitions

Discrimination

Discrimination occurs when someone is treated unfavourably because of one of his or her personal characteristics including, but not confined to, the following areas:

- Gender;
- Pregnancy;
- Age;
- Disability;
- Physical characteristic;
- Parental status;
- Religion;
- Social status;
- Sexual preference;
- Political belief and activity;
- Trade union activity;
- Marital status;
- Race;
- Irrelevant criminal record; and
- HIV/AIDS status.

Discrimination may involve, but is not confined to, the following:

- 'Jokes' or comments about another employee or volunteer's ethnic background, gender, sexual preference, age, disability or physical appearance;
- Displaying pictures or posters which are offensive or derogatory, expressing negative stereotypes of particular groups;
- Judging someone on their beliefs, origins, appearance and gender, rather than their work performance; and
- Undermining a person's authority or work performance because you dislike one or some of their personal characteristics.

Harassment

- Harassment is any unwanted, unwelcome or uninvited behaviour, which makes a person feel humiliated, intimidated or offended. For example, bullying or offensive verbal comments. Harassment can occur face-to-face, via social media, via telephone or over the email.
- Sexual Harassment is a legally recognised form of discrimination.
- Sexual harassment of an employee or by a fellow employee, regardless of when or where it occurs, is illegal and not acceptable.
- Acts of sexual harassment can take many different forms, including but not confined to:
 - Unwanted physical contact such as kissing, patting, touching, grabbing;
 - Sexual propositions;
 - Sexual intercourse under threat of loss of employment;
 - Unwelcome remarks or insinuations about a person's sex or private life;
 - Suggestive comments about a person's appearance or body;
 - Sexually explicit conversations;
 - Sexual or smutty jokes;
 - Inferences to sexual morality i.e. prude, tart, slut;
 - Offensive telephone calls or emails;
 - Offensive messages via social media channels such as Twitter and Facebook;
 - Gender-based insults or taunting;
 - Being followed home from work or repeated requests for dates or drinks particularly after prior refusal;
 - Offensive hand or body gestures; and
 - Offensive, humiliating or intimidating displays of sexually graphic material including posters, pictures, cartoons, graffiti or messages left on boards, desks or lockers.
- Behaviour that constitutes sexual harassment is illegal in any work related context - including Christmas parties and other work-related functions - and will be subject to disciplinary action.

Procedures

1. The *<insert club name>* will:

- Do all that is reasonable to prevent discrimination and harassment from occurring at the workplace or work related environment;
- Treat all employees on their merits without regard to race, age, sex, marital status, sexual preference, disability, religion or political conviction;
- Investigate complaints of discrimination and harassment in the workplace professionally, confidentially and in a non-judgemental manner ensuring there is no presumption of guilt;
- Provide information and support to complainants and advise on available options;
- Ensure all employees, volunteers and contractors are aware of the Policy;
- Not tolerate any victimisation or reprisals for making complaints;
- Maintain confidentiality of all matters relating to a complaint; and
- Not tolerate any misuse of this Policy.

2. All employees, volunteers and contractors have a responsibility to:

- Report any form of discrimination or harassment observed within the workplace;
- Offer support to victims by directing them to the most appropriate channel for help; and
- Maintain confidentiality of all matters relating to a complaint.

3. Should an incident occur:

- Persons who believe they have been discriminated against should contact the club Manager/Secretary or Committee to discuss the range of options available to deal with the matter;
- There are a number of options available to employees for dealing with discrimination ranging from dealing with the matter individually to making a formal complaint;
- If the matter cannot be resolved individually between the parties, a formal written complaint should be submitted to club management or a member of the *<insert club name>* Committee. In this situation, the club Manager will follow the club's Complaint Handling and Dispute Resolution procedures;
- All complaints of discrimination and vilification will be treated seriously, promptly, confidentially and impartially;
- Employees will not be disadvantaged in their employment conditions or opportunities as a result of lodging a complaint; and
- Should the internal dispute resolution procedure fail to generate an adequate outcome, the following external channels should be explored:
 - GRNSW Stewards or Executive;
 - NSW Anti-Discrimination Board;
 - Human Rights and Equal Opportunities Commission; and
 - Equal Opportunity Commission.

Penalties

1. Anyone who harasses or victimises a person who makes a complaint under this Policy will face disciplinary action.
2. Any person who, without authorisation from the club Manager or Secretary, passes on confidential information regarding an investigation under this Policy will face disciplinary action.
3. Disciplinary action may involve a warning (verbal or written) or suspension/termination of employment.
4. Serious breaches of this Policy may result in employment being terminated immediately. This means that no warnings will be given.
5. All club Committee members, employees, volunteers, contractors, participants and visitors to the club should note that individuals can take legal action against allegations of sexual harassment or discrimination under relevant state and Commonwealth legislation.