

MONASH UNIVERSITY CLUB Inc.

Unacceptable Behaviour Policy and Procedures

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1. INTRODUCTION

Monash University Club Inc. and its wholly controlled businesses (hereafter referred to as the Club) are committed to a safe and healthy work and activity environment, free from unacceptable behaviour.

This policy statement sets the legal and procedural requirements in regards to unacceptable behaviour and the ramifications of breaches of the policy.

Workers at the Club have the right to work positively and productively without being subjected to behaviour that is unwarranted and that humiliates, offends or intimidates them. Members and visitors are also entitled to enjoy the facilities of the Club free from the same behaviours.

Accordingly, the Club is committed to the elimination of inappropriate behaviour and is committed to the implementation of strategies and the promotion of awareness to prevent such behaviour from occurring.

2. SCOPE

This policy applies to all Committee of Management members, Club members, visitors, volunteers, agents, contractors and workers of the Club (collectively referred to as "Club personnel" throughout this policy). "Club personnel" also includes individuals who participate in any activities within, or sanctioned by, the Club and spectators and sponsors of such events.

3. WHAT IS UNACCEPTABLE BEHAVIOUR?

Unacceptable behaviour is behaviour that has created or has the potential to create a risk to a Club personnel's health and safety. Examples of unacceptable behaviour include but are not limited to:

- bullying;
- emotional, psychological or physical violence or abuse;
- occupational violence;
- coercion, harassment and/or discrimination;
- aggressive/abusive behaviour;
- unreasonable demands and undue persistence; and
- disruptive behaviour.

4. WHAT DOES THIS POLICY COVER?

This policy, including its complaints procedure, is designed to ensure that all Club personnel understand what constitutes unacceptable behaviour, how it occurs, what the effects are, and what a person should do if they are subjected to any unacceptable behaviour.

This policy is also intended to make Club personnel aware of their own responsibilities and that of the Club in regards to unacceptable behaviour.

The law makes distinctions between different types of unacceptable behaviour (eg sexual harassment, discrimination and bullying), and provides different resolutions for each type. This policy does not make these distinctions and is designed to protect Club personnel against all types of, unwarranted, unjustifiable and unacceptable behaviour.

5. SPECIAL PREVENTATIVE ACTION WHEN WORKING WITH MINORS

For the protection of minors at the Club, the Club places special requirements on Appointees and Preferred Applicants for certain roles to determine their appropriateness for the role. This policy sets out recommended screening requirements for Club personnel who are, or likely to, interact with persons under 18 years of age who maybe any one of the categories included in the Club personnel group as previously defined (eg staff, visitors etc).

For the purposes of this Policy, screening shall mean:

- Checking the Preferred Applicant's referees by making verbal or written inquiries of the Preferred Applicant's nominated referees (preferably at least two) as to the Preferred Applicant's suitability for both the proposed role and for involvement with children under 18 years of age;

- Interviewing the Preferred Applicant as to their suitability for the proposed role and their suitability for involvement with children under 18 years of age; and
- Obtaining a declaration from a Preferred Applicant and Existing Appointees that they have not committed an offence involving sexual activity or an act of indecency (a copy of the declaration is attached to this policy as Appendix A).

If the declaration is requested by the Club and not signed, then:

- in the case of a Preferred Applicant, they must not be appointed to the role;
- in the case of an Existing Appointee, steps must be taken to transfer the person to another role where contact is not made with minors or if no such alternatives exist, to end the appointment of the person. Note: Legal advice should be sought before the process of termination begins.

It is a breach of this Policy for a person that has committed an offence involving sexual activity or an act of indecency to work or seek work in the roles at the Club that have potential contact with staff or visitors under the age of 18. If the declaration is signed by a Preferred Applicant, but the screening process reveals that the Preferred Applicant is not appropriate for the role, they must not be appointed to the role.

All information obtained during the course of screening must be kept confidential to the Club or the person who has been delegated the task of making the appointment for the role. Information collected during screening about a person who is not appointed to the role will be destroyed when no longer required.

Successful Preferred Applicants or Existing Appointees working in one of the above roles must immediately advise, in writing, the complaints officer (or in their absence their nominee) of the organisation that appointed them if they are convicted of a criminal offence.

Screening under this Policy is not a replacement for any similar requirement prescribed by law. If State legislation sets an equivalent or higher standard of screening to that set under this Policy, the requirement to screen under this Policy need not be followed as it would be superseded by any similar requirement prescribed by law.

6. WHAT IS SEXUAL HARASSMENT?

Sexual harassment is any unwelcome conduct of a sexual nature that offends, humiliates or intimidates the person to whom it is directed. It often involves an abuse of power or trust and is often directed at someone who is unable to stop it easily. Sexual harassment has nothing to do with mutual friendships, which are a private concern, or any interaction that is consensual, welcomed and reciprocated.

Sexual harassment may consist of some or all of the following:

- sexual comments, jokes and innuendo;
- displaying offensive, obscene or pornographic material;
- sexual propositions or persistent requests for dates and the subsequent harassment of a person in the event of a refusal;
- physical contact such as patting, pinching, touching or brushing against a person;
- unwelcome and inappropriate remarks about a person's sex, sexuality or private life;
- suggestive comments about a person's appearance or body;
- staring, leering, catcalls, obscene gestures and wolf whistles;
- indecent exposure;
- subtle or direct requests for sexual favours; and
- sexual assault and rape (which would amount to criminal offences).

An example of sexual harassment would be a Club house supervisor making an inappropriate advancement to a female worker by slapping the worker on the buttocks when the worker walked past.

7. WHAT IS DISCRIMINATION?

Discrimination is any behaviour which is offensive, abusive, belittling or threatening and which is directed at a person or group because of a particular protected attribute. The law sets out which attributes are “protected”:

- Age
- Breastfeeding
- Carer status
- Disability/impairment
- Gender identity
- Industrial activity
- Lawful sexual activity
- Marital status
- Parental status
- Physical features
- Political belief or activity
- Pregnancy
- Race
- Religious belief or activity
- Sex
- Sexual orientation
- Personal association with someone who has, or is assumed to have, one of these personal characteristics.

It is against the law to treat someone unfairly or discriminate against them, directly or indirectly, because they possess or are assumed to possess one of these characteristics.

Discrimination may include, but is not limited to:

- verbal abuse or comments that put down or stereotype people;
- mimicking someone’s accent, or the habit of someone with a disability;
- offensive gestures; and
- displaying or circulating racist or other offensive material.

Direct discrimination

Direct discrimination occurs if a person treats, or proposes to treat, someone with an attribute less favourably than the person treats or would treat someone without that attribute, or with a different attribute, in the same or similar circumstances.

An example of direct discrimination would be a Club policy refusing a member access to use the Club facilities because they are in a wheelchair, or a Club policy saying that no Sikhs are allowed at the Club.

Indirect discrimination

Indirect discrimination occurs if a person imposes, or proposes to impose, a requirement, condition or practice:

- that someone with an attribute does not or cannot comply with; and
- that a higher proportion of people without that attribute, or with a different attribute, do or can comply with; and
- that is not reasonable.

An example of indirect discrimination would be the Club having no ramps and therefore no disabled access.

This policy is broader than the strict law, and seeks to protect Club personnel from all unreasonable discriminatory behaviour – regardless of whether it is direct or indirect, based on a protected attribute or not.

Requesting, assisting, instructing, inducing or encouraging another person to engage in discrimination is also prohibited under this policy and the law.

8. WHAT IS BULLYING?

Bullying is repeated, unreasonable behaviour directed towards a person or group of people that creates a risk to health and safety. It often involves a person who is in a position of power subjecting another person to unfavourable treatment.

In order for behaviour to amount to bullying the behaviour must be repeated and unreasonable; however single incidents of bullying-style behaviour and violence are not condoned and may still be prohibited by this policy.

The following types of behaviour could be considered bullying:

- verbal or physical abuse;
- jokes, pranks or initiation;
- intimidation;
- inappropriate comments and touching; and
- degrading or excessive criticism.

In a work context, reasonable and lawful directions and constructive performance-related activities do not amount to bullying.

An example of bullying would be an Executive Chef continually subjecting a kitchen hand to hostile and inappropriate comments in the kitchen about their performance, leading to the kitchen hand becoming stressed and anxious. Another example of bullying would be an apprentice being subject to physical abuse and being required to perform unreasonable tasks as part of “initiation”.

9. OCCUPATIONAL VIOLENCE

Occupational Violence is defined as any incident where an employee is physically attacked or threatened in the workplace.

Within this definition:

“**threat**” means a statement or behaviour that causes a person to believe they are in danger of being physically attacked.

“**physical attack**” means the direct or indirect application of force by a person to the body of, or to the clothing or equipment worn by, another person, where the application creates a risk to health and safety

The term “occupational violence” applies to all forms of physical attacks on employees, including:

- striking, kicking, scratching, biting, spitting or any type of direct physical contact;
- throwing objects;
- attacking with knives, guns, clubs or any other type of weapon;
- pushing shoving, tripping, grabbing;
- any form of indecent assault.

10. WHEN IS BEHAVIOUR UNACCEPTABLE?

Unacceptable behaviour does not refer to compliments or behaviour that neither party finds offensive. However, it is sometimes difficult to know whether other people will find your behaviour acceptable. You should be careful not to risk being misunderstood as misunderstandings often lead to complaints. Remember that some people find particular types of behaviour offensive even though other people would not. The behaviour must always be considered from the point of view of the person receiving it. It is no defence that you did not mean to cause offence.

Unacceptable behaviour is not just inappropriate at the Club itself or during working hours; it is inappropriate in any work related context for example staff Christmas parties.

11. WHAT ARE THE EFFECTS OF UNACCEPTABLE BEHAVIOUR?

The Club strives to provide a happy and healthy environment for work and leisure. Unacceptable behaviour is disruptive to the well being of the Club.

Unacceptable behaviour towards Club personnel can lead to embarrassment, intimidation, anger, humiliation, anxiety, fear and/or physical illness. It can lead to severe distress to individuals as well as conveying a poor image of the Club, and make the Club an unhappy and unhealthy environment for workers and members .

12. WHAT DOES THE CLUB UNDERTAKE TO DO?

- to ensure that Club personnel are aware of this policy;
- Ensure that the Club Rules (Constitution) support this policy;
- to appoint the President of the Club Committee of Management to be the contact person for the purposes of this policy and an alternative contact person from the Committee (see below for the contact person's details);
- to ensure that all persons understand that unacceptable behaviour will not be tolerated under any circumstances;
- to ensure that the Club promotes a happy and healthy environment in which all Club personnel are treated fairly and equitably and are not subject to unacceptable behaviour;
- to monitor the Club environment to ensure acceptable standards of conduct are observed at all times;
- to ensure complaints are treated seriously and fairly and investigated thoroughly and promptly with due regard to confidentiality; and
- to take disciplinary action, and possibly criminal charges in extreme cases, against anyone found to be breaching this policy.

13. WHAT ARE THE RESPONSIBILITIES OF CLUB PERSONNEL?

- to treat other Club personnel fairly and with respect;
- to report any incidences of unacceptable behaviour at the Club; and
- to maintain complete confidentiality if they provide information during the investigation of a complaint.

14. WHAT SHOULD YOU DO IF YOU OBSERVE UNACCEPTABLE BEHAVIOUR?

Any Club personnel who become aware of unacceptable behaviour should make reasonable attempts to stop the behaviour, and as soon as possible refer the matter to the contact person. If the contact/alternate contact person is unavailable or is a party to the complaint or has a relationship with those involved such as would compromise the contact person's impartiality, the matter should be referred to another member of the Committee of Management or to the Club manager.

15. WHAT SHOULD YOU DO IF YOU HAVE BEEN SUBJECTED TO UNACCEPTABLE BEHAVIOUR?

It is important that you come forward with any complaint you may have. This will ensure that your rights are protected and that others are also not subjected to the same behaviour. All reasonable attempts to resolve the matter satisfactorily will be made in-house. Any complaints will be dealt with seriously and confidentiality will be respected at all times.

It is unlawful to victimise or penalise a person for making a complaint in good faith. The Club has a commitment to make sure that anyone who makes a genuine complaint is supported and is not penalised in any way.

What steps should you take?

Firstly if you feel able to speak with the offender/s, tell them in a firm manner (verbally or in writing) that their behaviour is offensive and unacceptable and that you want the offensive action to cease. Generally they are unaware that their behaviour is upsetting, and usually the behaviour will stop. If you feel you do not wish to complain directly to the person, or if you have complained and the behaviour is still ongoing, then you should:

- speak to your immediate manager/supervisor or the nominated contact person who will attempt to mediate on the complaint or will assist you to access the *Complaint Resolution Procedure* below; or
- you can immediately access the *Complaint Resolution Procedure* yourself and make a complaint (note: Club members can also access the grievance handling procedures in the Club rules – Section 54 of the Constitution).

If you do not feel comfortable speaking to anyone at the Club then you can also contact the Equal Opportunity Commission on (03) 9281 7100 or 1800 134 142 (toll free) for confidential advice and information.

16. WHAT SHOULD YOU DO IF YOU ARE ACCUSED OF UNACCEPTABLE BEHAVIOUR?

If you have been accused of unacceptable behaviour you should take the matter seriously. It is important that you try to understand the point of view of the person who believes he or she has been subjected to the behaviour. You may need to modify your behaviour to ensure that you do not offend or distress other Club personnel.

If the issue proceeds you are required to co-operate with the *Complaint Resolution Procedure*. The Club will make every attempt to treat those involved with respect and fairness, and to ensure that everyone is given the opportunity to be heard.

17. WHAT IS THE COMPLAINT RESOLUTION PROCEDURE?

The *Complaint Resolution Procedure* is the process by which the Club handles complaints. It is flexible and it provides an opportunity for action to be taken that is suitable in each individual case. It can include informal resolution, mediation and/or disciplinary action.

The primary aims of the *Complaint Resolution Procedure* are to ensure that:

- the behaviour stops;
- there are no reprisals for making the complaint; and
- where disadvantage has occurred, it is redressed.

The guiding principles are:

- the right of individuals to be treated with respect and to be heard and respond to any allegations;
- observance of confidentiality; and
- preservation of a non-judgmental and non-adversarial approach by those involved in the *Complaint Resolution Procedure*.

18. WHAT IS THE PROCESS OF THE COMPLAINT RESOLUTION PROCEDURE?

The following will be used as a guide to resolve complaints. It is not required that each step be followed in a sequential order.

1. the victim or the person observing the unreasonable behaviour contacts or approaches the contact person and informs them of the complaint or behaviour;
2. if the contact person feels they are not impartial to the complaint, the matter will be referred to another Committee of management member or the Club manager;
3. if the matter is referred to someone other than the contact person, that person becomes the contact person for the purposes of this procedure;
4. the person making the complaint (“the complainant”) will be interviewed and the nature of the complaint clarified, and the complainant will be encouraged and assisted to put the complaint in writing;

5. the complainant will be notified of the options available for resolving the complaint, such as resolution through this process, the Club's rules or through the Equal Opportunity Commission;
6. a full explanation of the *Complaint Resolution Procedure* and possible outcomes of such action will be given to the complainant, as well as a copy of this policy;
7. the complaint will only proceed with the agreement of the complainant;
8. the contact person will arrange a meeting between the contact person and the person complained about ("the respondent");
9. the respondent will be fully informed of the complaint, the name of the complainant, any evidence that may have been submitted by the complainant, and also given a copy of this policy;
10. the respondent will be given the opportunity to fully respond to the allegations and to assist in the resolution of the complaint;
11. it will be at the contact persons' discretion as to whether any witnesses named by the complainant and respondent will be asked to provide a written statement and/or possibly attend an interview regarding the complaint;
12. any interviews performed or statements obtained from witnesses will be performed or obtained bearing in mind the confidentiality and sensitivity of the matter;
13. the complainant will be informed of the discussion and outcomes of the meeting between the contact person and the respondent, and any proposal for resolution will be discussed;
14. if an agreed resolution is not reached, the contact person may arrange, if the contact person feels that it would be appropriate, for the parties to meet and discuss the matter;
15. if an agreed resolution is still not reached, the contact person will arrange to have a mediator attempt to guide the parties to an appropriate outcome and mediate a formal resolution between the complainant and the respondent;
16. the mediator must be a person chosen by agreement between the parties or in the absence of agreement a person appointed by the Committee of Management, unless the matter involves a member of the Committee of Management, in which case the mediator will be a person nominated by Monash University
17. a member of the Club can be a mediator, but the mediator cannot be a member who has an interest in the matter;
18. the parties to the matter must, in good faith, attempt to settle the dispute by mediation;
19. the mediator, in conducting the mediation, must:
 - give the parties to the mediation process every opportunity to be heard; and
 - allow due consideration by all parties of any written statement submitted by any party; and
 - ensure that natural justice is accorded to the parties throughout the mediation process;
 - the mediator must not determine the matter;
20. if an agreed resolution is not reached after mediation, the contact person will advise the complainant of the options that are available for taking the complaint further, for example referral to the Equal Opportunity Commission, , formal arbitration or mediation through the Dispute Settlement Centre of Victoria (Department of Justice), and the contact person will assist the complainant to take the appropriate next step.

Written records will be kept to establish the facts and all documents will be kept secure. Information about the complaint will only be accessible to those whose role it is to deal with complaints.

19. OUTCOMES OF THE COMPLAINT RESOLUTION PROCEDURE.

If an amicable resolution is reached by both parties during mediation, the complaint will have deemed to be settled and no further action will be taken by the contact person.

If the respondent is a member of the Club and the contact person considers that the respondent has breached this policy then the contact person is to refer the matter to the Committee of Management and the committee shall invoke the Club's disciplinary procedure as set out in the Club's rules.

If the respondent is an employee or contractor engaged to perform work at the Club and the contact person considers that the respondent has breached this policy, then the contact person is to refer the matter to the Committee of Management and the matter will be handled in accordance with the Workplace Relations laws and the employment policies at the Club.

If the respondent is a non-member and non-employee at the Club and the contact person considers that the respondent has breached this policy, then the contact person is to refer the matter to the Committee of Management and the matter will be handled in such manner as the committee considers appropriate.

The range of sanctions that may be imposed by the Club on a respondent who is found to have breached this policy will depend upon the status of the respondent and may include:

- directing the offender/s to make an apology;
- directing the offender/s to change their behaviour;
- disciplinary action, including:
 - transfer, demotion or dismissal or the issuing of a warning when the behaviour is performed by an employee
 - disciplinary procedures as per the Club rules when the behaviour is performed by a member
 - cancellation of contracts when the behaviour is performed by contractors and/or agents to the Club
 - withdrawal of invitation to use Club facilities when the behaviour is performed by non-members
- counselling support;
- where there has been damage to property, directing that the offender/s pay compensation to the relevant organisation or person/s;
- a fine;
- withdrawal of any awards presented by the Club;
- direct the offender/s to repay all or part of any relevant financial assistance; and
- any other such penalty considered appropriate.

Any person who, after proper investigation, is found to have breached this policy **will** face disciplinary action. If, however, the investigation finds that the complaint cannot be substantiated, both parties will be informed of the reasons.

If you are found guilty of unacceptable behaviour you may incur personal financial costs. Under no circumstances will the Club reimburse any such costs.

If the investigation finds that the complaint was deliberately fabricated, the person who made the complaint will be formally warned and counselled if they are an employee, or subjected to disciplinary action if they are a member. False allegations and complaints may be also subject to defamation laws.

20. WHERE CAN YOU GET FURTHER INFORMATION ABOUT UNACCEPTABLE BEHAVIOUR?

For further information about this policy, harassment, discrimination bullying or related issues, please contact either the contact person or the Club Manager. The nominated contact person for the Club is the President of the Monash University Club Committee of Management, currently Professor Rob Willis.

APPENDIX A

It is a breach of the Clubs Conduct and Behaviour Policy for a person to work or seek work who has committed an offence involving sexual activity or an act of indecency.

This declaration is required by persons applying for or working at the Club in any role where they may come into contact with a person under the age of 18.

The Club defines an offence involving sexual activity or an act of indecency to mean an offence including but not limited to:

- Rape;
- Indecent or sexual assault;
- Sexual relationship or an indecent act with a child under the age of 16;
- Sexual offences against people with impaired mental functioning;
- Abduction and detention;
- Procuring sexual penetration by threats or fraud;
- Soliciting acts of sexual penetration or indecent acts;
- Promoting, engaging in or obtaining benefit from acts of child prostitution; and
- Possession of child pornography and publishing indecent articles.

Declaration

I am aware that I am ineligible to work or seek work in the roles set out above if I have been convicted of an offence involving sexual activity or an act of indecency.

I have read and understood the above and understand my responsibilities and obligations under it. I declare that I have not been convicted of an offence involving sexual activity or an act of indecency and that I have been given the opportunity to seek independent legal advice.

I acknowledge that I am required to immediately advise, in writing, the complaints officer (or in their absence their nominee) of the organisation that made my appointment if I am convicted of a criminal offence.

Signature _____ Date _____

Print Name _____

Parent/Guardian Consent (in respect of person under the age of 18 years)

I have read and understood the declaration provided by my child. I confirm and warrant that the contents of the declaration provided by my child are true and correct in every particular.

Signature _____ Date _____

Print Name _____