
Modified from CAST (Confederation of Australian State Theatres) policy July 2019.

RESPECTFUL WORKPLACE POLICY

OUR SHARED COMMITMENT

Phoenix Ensemble is committed to providing a safe and respectful workplace, free of discrimination, bullying and harassment, sexual or otherwise.

Often, unacceptable workplace behaviour goes unreported. This may typically be because of a fear of retribution or a belief that no action will be taken. Phoenix Ensemble urges all people associated with the company to please speak out so that any issues may be dealt with at the earliest possible stage. Only through early identification of potential issues can preventative measures be put in place to mitigate the risk of more serious issues.

Phoenix Ensemble is committed to taking all reports of unacceptable behaviour seriously, treating them confidentially (unless otherwise agreed) and, most importantly, taking appropriate action to stop any unacceptable behaviour from being repeated.

Everyone associated with Phoenix Ensemble is considered responsible for ensuring that they behave appropriately at all times and for reporting unacceptable behaviour whether experienced personally or witnessed.

Everyone in a leadership role has a responsibility for:

- role modelling appropriate standards of behaviour;
- ensuring that this policy is clearly communicated and understood;
- treating every issue seriously, professionally, with appropriate urgency and in alignment with this and any related policies and procedures;
- helping complainants to resolve issues informally, where appropriate;
- guiding complainants in how to raise a formal grievance if it is their wish to do so;
- using their best endeavours to prevent workers who raise an issue or make a complaint from being victimised and taking steps to address the issue where it occurs;
- providing advice about the interpretation of this policy and;
- ensuring that all impacted parties are aware of the support available with regard to any issues arising that compromise a respectful workplace.

PURPOSE

This Policy sets out to describe the expectations of all those involved with Phoenix Ensemble in creating and maintaining a respectful workplace.

It also describes in detail what constitutes unacceptable behaviour including discrimination, harassment, sexual harassment, bullying, victimisation, vilification, gossip and breaches of confidentiality.

Finally, it makes clear what action should be undertaken in the event that any unacceptable behaviours are experienced or witnessed.

SCOPE

This procedure applies to everyone in Phoenix Ensemble workplaces which includes, but is not limited to,

- board members;
 - Show personnel (e.g. actors, dancers, directors, choreographers, writers, stage management, chaperones, technical crew, front of house);
 - production and administrative staff;
 - employees;
 - people auditioning for roles;
 - student placements, work experience students/interns;
 - volunteers and anyone working in an unpaid capacity.
 - All workers must comply with this procedure.
- This policy, and the legislation that informs it, may be amended from time to time, and to the extent that there is an inconsistency between the law and this policy, the law will prevail.
 - This policy applies in all Phoenix Ensemble workplaces and also extends to work-related functions including, but not limited to, the following circumstances:
 - interactions with clients, visitors and members of the public;
 - on-site, off-site, Phoenix Ensemble-related social functions (such as opening nights and after parties); rehearsals; promotional activities; seminars or training sessions – wherever and whenever members are representatives of Phoenix Ensemble;
 - use of social media and other electronic communication (e.g. Facebook/Twitter/Instagram/email/texts).

A RESPECTFUL WORKPLACE

At Phoenix Ensemble, we aim to create and maintain an environment in which everybody feels safe, both physically and emotionally, which means:

- everyone is treated with dignity, courtesy and respect;
- discrimination, bullying, harassment and abuse of power in any form are not

- tolerated;
- appropriate standards of conduct are encouraged and promoted;
- leaders lead by example;
- all incidents of unacceptable behaviour are confronted and/or reported;
- all reports of unacceptable behaviour are dealt with sensitively, fairly and with appropriate urgency;
- any behaviour which is found to be unacceptable results in appropriate disciplinary action, up to and including dismissal / cancelation of membership.

EXAMPLES OF UNACCEPTABLE BEHAVIOUR

From time to time behaviour may occur that is not aligned to a safe and respectful workplace. The following provide a description of behaviours which Phoenix Ensemble considers unacceptable. This list is not considered to be exhaustive and there may be other unacceptable behaviours that occur which are not listed here.

Discrimination:

Discrimination is **treating or proposing to treat someone unfavourably because of a personal characteristic protected by law** such as sex, age, race or disability.

It is unlawful to discriminate against someone because of a protected personal characteristic. Protected personal characteristics under federal discrimination law include, but are not limited to:

- A disability, disease or injury including work-related injury;
- Parental status or status as a carer;
- Race, colour, descent, national origin or ethnic background;
- Age;
- Gender and gender identity;
- Sexual orientation;
- Industrial activity;
- Religion;
- Pregnancy and breastfeeding;
- Marital status;
- Political opinion;
- Social origin;
- Medical records;
- Associating with someone 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 against the law to treat someone unfavourably because you assume they have a

protected personal characteristic or may have it at some time in the future.

What is not discrimination:

In certain circumstances, it will not be unlawful discrimination to treat workers differently because of a protected personal characteristic. The main exceptions are where the discriminatory act or practice:

- is necessary to comply with other legislation;
- is taken because the member cannot perform the inherent (essential) requirements of their job, even where reasonable adjustments are made;
- is necessary to protect health and safety; or
- is permitted because an exemption or 'special measure' applies. This is often referred to as 'positive discrimination' or 'affirmative action'

HARRASSMENT

Harassment is **unwelcome and unsolicited behaviour** that a **reasonable person would consider to be offensive, intimidating, humiliating or threatening**.

It is unlawful to harass an individual or group because of a protected characteristic (such as age, sex or race, outlined above). Harassment that is not related to a protected characteristic is still inappropriate in the workplace and Phoenix Ensemble will deal with such incidents accordingly.

Harassment can be physical, spoken or written. It can include, but is not limited to:

- intimidation, verbal abuse, repeated threats or ridicule;
- sending offensive messages by text, email or other means;
- derogatory comments;
- displaying offensive materials, pictures, comments or objects;
- ridiculing someone because of their accent or English-speaking ability;
- telling offensive jokes or making practical jokes based on a protected characteristic;
- belittling or teasing someone based on a protected characteristic;
- isolating, segregating or humiliating someone based on a protected characteristic.

SEXUAL HARASSMENT

Sexual harassment is **any form of unwelcome behaviour of a sexual nature, which could be expected to make a person feel offended, humiliated or intimidated**.

It is unlawful for a member to engage in sexual harassment or encourage or allow another to do so. Sexual harassment can be physical, spoken or written. It can include, but is not

limited to:

- staring or leering at a person or parts of their body;
- excessive or unwelcome familiarity or physical contact, such as touching, hugging, kissing, pinching, massaging and brushing up against someone;
- suggestive comments, jokes, conversations or innuendo;
- insults or taunts of a sexual nature or obscene gestures;
- intrusive questions or comments about someone's private life;
- displaying or disseminating material such as posters, magazines or screen savers of a sexual nature;
- making or sending sexually explicit phone calls, emails or text messages;
- inappropriate advances on social networking sites;
- accessing sexually explicit internet sites in the presence of others;
- unwelcome flirting, requests for sex or repeated unwanted requests to go out on dates;
- inappropriate or unwanted gifts;
- behaviour that may also be considered to be an offence under criminal law, such as physical or sexual assault, indecent exposure, 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.

Behaviour can still be considered to be sexual harassment even if:

- It is a one-off incident;
- The person engaging in the behaviour did not intend to humiliate, intimidate or offend;
- Other people in the workplace are not offended by the behaviour; or
- The behaviour was previously an accepted practice in the workplace.

All incidents of sexual harassment – no matter how big or small or who is involved – should be reported to ensure any unacceptable behaviour is not repeated.

What is not sexual harassment?

Where members engage in consensual, welcome and reciprocated behaviour, this is not sexual harassment. However, appropriate professionalism is expected at all times.

Consent is often wrongly assumed. For the avoidance of all doubt, consent needs to be given clearly and enthusiastically - anything less should be regarded as a "no".

Workplace bullying

Workplace bullying ('bullying') is where an individual or group of individuals **repeatedly behave unreasonably** to another person or group of persons at a workplace, which creates a **risk to health and safety**.

It is unlawful for a worker to engage in bullying or encourage or allow another to do so.

Bullying does not need to be intentional to be unlawful. Whilst one-off incidents of unreasonable behaviour may not be considered bullying, they are still inappropriate and may constitute discrimination or harassment.

Bullying can take many forms. It can be physical, spoken, written, overt or covert. Behaviours that may constitute bullying include, but are not limited to:

- physical intimidation or abuse;
- aggressive or intimidating conduct or threatening gestures;
- manipulation, intimidation or coercion;
- threats, abuse, offensive language, shouting or belittling;
- innuendo, sarcasm and other forms of demeaning language;
- ganging up;
- public humiliation or belittling;
- initiation activities;
- practical jokes, teasing, or ridicule;
- isolation, exclusion or ignoring people;
- inappropriate blaming;
- inappropriate emails/pictures/text messages;
- unreasonable accusations or undue unconstructive criticism;
- allocating unpleasant, meaningless or impossible tasks;
- placing unreasonably high work demands on members;
- deliberately withholding information, resources, support, supervision, consultation or equipment that a person needs to do their job;
- withholding access to opportunities;
- deliberately changing hours of work to inconvenience them;
- unreasonable timelines or constantly changing deadlines targeted at a specific person or group.

The live performance industry is creative and continually strives for artistic excellence. Achieving such artistic outcomes often involves 'pushing the boundaries'. However, all workers in this process should behave in a manner that is professional, appropriate and does not constitute harassment or bullying.

Reasonable Management Action

Workplace bullying does not include reasonable management action carried out in a reasonable manner. Phoenix Ensemble has the rights and obligations to effectively direct and control the way work is carried out. It is reasonable for managers and supervisors to allocate tasks and give fair and reasonable feedback on performance.

Examples of reasonable management action include, but are not limited to:

- setting reasonable performance goals, standards and deadlines;
- rostering and allocating working hours where the requirements are reasonable;
- transferring a member for operational reasons;
- disciplinary action (including investigations) taken in a reasonable manner;
- informing a worker about unsatisfactory work performance or inappropriate

- behaviour in an objective and confidential way;
- implementing organisational changes or restructuring

Workplace conflict is generally not considered workplace bullying. Differences of opinion and disagreements in the workplace, e.g. differences of opinion on artistic interpretation or direction, may arise without engaging in repeated, unreasonable behaviour that creates a risk to health and safety. This is because not all conflicts or disagreements have a negative impact on health or safety, and it is common within a workplace that people will have differences of opinion. Low level, task- based differences of opinion can benefit the organisation and workers, as it may generate debate leading to new ideas and innovation, provided all workers behave in an appropriate manner.

Victimisation

Victimisation is **subjecting or threatening to subject someone to a detriment** because they have asserted their rights, made a complaint, helped someone else make a complaint, or refused to do something because it would be discrimination, harassment, sexual harassment or bullying. It is also victimisation to threaten someone, such as a witness, who may be involved in an investigation of a complaint.

It is unlawful to victimise another person.

Victimisation is a very serious breach of this policy and is likely, depending on the severity and circumstances, to result in formal disciplinary action against the perpetrator. The perpetrator may also be subject to legal proceedings under anti-dis- crimination or criminal law.

Vilification

Vilification is **any public act that incites hatred, serious contempt, or severe ridicule** against another person or group of people due to their race (including ethno- religious origin), homosexuality, transgender status and HIV/AIDS status.

Gossip and Confidentiality

All workers must avoid gossiping about historical matters involving current or former members or any allegations of inappropriate workplace behaviour occurring at Phoenix Ensemble. Where a member considers a person's behaviour to be inappropriate, they should raise this with the relevant leadership or manager.

It is also unacceptable for members to talk with other members, clients or suppliers, extended family or friends, or the media about any complaint of discrimination, harassment, sexual harassment or bullying that is the subject of a complaint or investigation other than on a 'need to know' basis.

Breaching the confidentiality of a current complaint or investigation or inappropriately

disclosing personal information obtained in the course of a complaint or investigation (for example, as a manager) is a serious breach of this policy and may lead to formal disciplinary action.

Those directly involved in a complaint (i.e. complainant and respondent) are entitled to seek personal and professional support, and seeking of such support (for example, from someone who has knowledge of the complaint) is not considered a breach of confidentiality.

As a general rule of thumb, if you are in doubt about how your own behaviour will be perceived, don't do it.

REPORTING UNACCEPTABLE BEHAVIOUR

In the interests of maintaining a safe and respectful workplace, it is important that incidents of unacceptable behaviour are managed appropriately to prevent a reoccurrence.

If you feel able, you are encouraged to deal with the issue directly in the first instance by talking to the person who has behaved unacceptably in a calm, timely and respectful manner.

If you do not feel able to speak with the individual concerned or the behaviour has been repeated after you have spoken to them, please raise the issue with any relevant person in a position of authority, who you feel comfortable with. Your conversation will be treated confidentially, unless agreed otherwise with you, providing there is no immediate perceived risk to health and safety.

Refer also to the Phoenix Ensemble Grievance Resolution Procedure.

For cast members this could include members of the creative team and/or board members such as the Stage Manager, Artistic Director, Director, Musical Director, Production Liaison or anyone else in a Board or management position.

You can also get independent information, support or advice through the following organisations:

- Media Entertainment and Arts Alliance (MEAA): www.meaa.org
- Centre Against Sexual Assault: www.casa.org.au

REQUEST FOR ANONYMITY

In some cases, it will not be possible for the person raising the grievance to remain anonymous due to the right of other parties to natural justice and to know the nature of the allegation(s) being made against them. Anonymity may also delay an issue from being resolved thereby creating a potential health and safety hazard for other workers.

While the complainant's wishes will be taken into account, they do not determine whether or how the complaint should be investigated. That is the responsibility of the person hearing the grievance. A complainant will be advised in advance if the company is unable to maintain confidentiality.

All reports of unacceptable behaviour will be dealt with in a sensitive, impartial, professional and timely manner with reference to the **Phoenix Ensemble Respectful Workplace Policy and Grievance Resolution Procedure**. Upon reporting an issue you will be provided with copies of any relevant policies and procedures and next steps will be explained to you in detail. At all times you will be provided with support and your personal health, wellbeing and privacy will be treated as a high priority.

The police will be informed of alleged criminal offence.

ALLEGATIONS MADE IN BAD FAITH

Inaccurate, misleading, malicious or false accusations have negative consequences for the person(s) concerned, interpersonal relationships and morale of the work- place. Where it is found that a complaint has been made in bad faith to cause dis- tress to one or more persons or as a practical joke disciplinary measures will be taken.

CONSEQUENCES OF UNACCEPTABLE BEHAVIOUR

Where appropriate, individuals alleged to have behaved unacceptably will be subject to the discipline as decided by the board of the Phoenix Ensemble. Serious incidents of unacceptable behaviour will lead to disciplinary action including dismissal from shows and cancelation of membership.

Members may also be held personally liable for their own behaviour or conduct. This means that when a member may be subject to a penalty or an order from the regulator, the Fair Work Commission or another relevant tribunal or court.

LEGISLATION AND RELATED CAST POLICIES

Discrimination, harassment, sexual harassment and bullying are unlawful under state/territory and federal legislation. These include:

- *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);*
- *Fair Work Act 2009 (Cth);*
- *Anti-Discrimination Act 1977 (NSW);*
- *Anti-Discrimination Act 1991 (Qld);*
- *Anti-Discrimination Act 1992 (NT);*
- *Anti-Discrimination Act 1998 (Tas);*
- *Equal Opportunity Act 1984 (SA);*
- *Equal Opportunity Act 1984 (WA);*

- *Equal Opportunity Act 2010 (Vic);*
- *Racial and Religious Tolerance Act 2001 (Vic);*
- *Discrimination Act 1991 (ACT); Work Health and Safety Act 2011 (NSW)*
- *Occupational Health and Safety Act 2004 (Vic);*
- *Work Health and Safety Act 2011 (Qld);*
- *Occupational Safety and Health Act 1984 (WA);*
- *Work Health and Safety Act 2011 (SA);*
- *Work Health and Safety Act 2011 (Tas);*
- *Work Health and Safety Act 2011 (ACT); and*
- *Work Health and Safety (National Uniform Legislation) Act 2011 (NT).*

The above list is not exhaustive and additional Federal and/or State legislation may apply subject to specific circumstances, e.g. legislation related to working with children.

This policy has been developed in alignment with CAST policies which, in turn, are based on, Live Performance Australia (LPA) guidelines.

If you have a query about this policy or need more information please contact the Phoenix Ensemble board members.

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