

P9 ANTI-DISCRIMINATION HARASSMENT AND BULLYING

Scheduled Reviewed Triennially or as required

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Introduction

KA recognises its responsibilities to ensure that it provides a working and sporting environment that is free from discrimination, harassment and workplace bullying.

KA is committed to ensuring that all participants in the sport are treated with courtesy, dignity and respect at all times.

Scope

This policy applies to all KA Board, State Karting Associations, State Karting Council's, Member States, Affiliated Clubs, Members, Staff and Volunteers.

Definitions

In addition to the definitions in the KA Manual, the following definitions apply to this policy:

Board Members (The Board)

Directors of the KA Board

KA Appointed Officials

Officials appointed by KA to work at a KA Event or a Permitted Event, including Stewards of Meetings, Clerks of the Course, Technical Commissioners and any other official expressly appointed by KA, a Member State or an Affiliated Club.

KA Events

Karting events conducted by KA excluding Permitted Events.

Permitted Events

Karting events that are not conducted by KA but are conducted pursuant to a licence, permit or authority issued by KA.

Staff

A paid employee of, or contractor engaged by KA who conducts work for KA including at KA Events and Permitted Events.

Volunteers

Unpaid/Honorary representatives working for KA on authorised and approved KA business, including but not limited to Board members, Commission and Committee members and KA Appointed Officials.

Policy Objective

To ensure that all KA Board, Staff and Volunteers understand KA's expectations and their legal obligations in relation to discrimination, harassment and workplace bullying KA seeks to:

- create a working environment which is free from discrimination, harassment and workplace bullying and where each person is treated with courtesy, dignity and respect
- have employment practices which ensure that individuals or members of a particular group are not discriminated against because of their attributes
- promote appropriate standards of conduct
- promptly resolve issues when they occur and resolve complaints in a fair and timely manner.

Law

KA is subject to Federal, State and Territory legislation prohibiting discrimination, harassment, workplace bullying, victimisation and vilification. This legislation varies in its content and the penalties imposed between the various jurisdictions.

The Human Rights and Equal Opportunity Commission is the administrative body responsible for the implementation of federal human rights and anti-discrimination law in Australia. The Commission is committed to providing employers with the necessary information and resources to understand and implement their obligations under the legislation.

Ignorance of the law is neither an acceptable defense nor an excuse for inappropriate behaviour. Under the relevant legislation it is not relevant whether the behaviour was intentional or unintentional.

Policy Statement

It is against the law for any employer or employee/volunteer to discriminate against or harass a current or prospective employee/volunteer on the basis of the grounds stated below.

Protected attributes include, but are not limited to, a person's:

- age
- disability
- industrial activity
- marital, parental or carer status
- physical features
- political beliefs or activity
- pregnancy
- race
- sex
- sexual orientation
- religious beliefs or activity
- gender identity

It is also unlawful to discriminate against a person because that person is personally associated with someone who has, or is assumed to have, one of the above characteristics.

What Is Discrimination?

There are a number of practices and behaviour that Federal, State and Territory legislation specify are unlawful and accordingly will not be tolerated by KA, which include:

Discrimination	Laws about discrimination are made at both the Commonwealth and the State and Territory levels. These laws include a range of grounds on which individuals may lodge a complaint including discrimination because of race, sex, disability and age.
Direct discrimination	Any action which specifically excludes a person or group of people from a benefit or opportunity or significantly reduces their chances of obtaining it because of a personal characteristic irrelevant to the situation e.g. sex, ethnic origin. An example of direct discrimination would be an employer refusing to hire a person because of their race.
Indirect discrimination	Any outcomes of rules, practices and decisions which purport to treat people equally and therefore appear to be neutral, but which are unreasonable and reduce an individual's chances of obtaining a benefit or opportunity e.g. height and weight requirements for candidates for a role which are irrelevant. For example, if an employer were to hire only people over 180cm tall and there was no good reason for that policy, then that would indirectly discriminate against women who are less likely to meet the height requirement
Vicarious liability	The responsibility of an employer for the actions of employees or agents towards others as they do their work. If these actions are found to be unlawful under the relevant State, Territory or Federal Act, both the person complained about and the employer may be held responsible. Employers need to demonstrate the steps taken to prevent the behaviour.
Discrimination in employment	Prohibited action includes treating an employee unfavourably in any way in connection with work as a result a ground stated in this policy.

What Is Sexual Harassment?

In terms of anti-discrimination law, sexual harassment is any form of sexually related behaviour that:

- you do not want; and
- in the circumstances, a reasonable person would have expected you to be offended humiliated or intimidated

What Can Be Considered Harassment or Sexual Harassment?

There are many forms of harassment including but definitely not limited to:

- material that is based on the grounds listed above that is displayed or circulated in the workplace even on a person's belongings
- verbal abuse or comments that put down or stereotype people on the grounds listed
- offensive jokes or gestures based on the grounds listed
- ignoring, isolating or segregating a person or group on the grounds listed
- staring, leering or non-physical (whistling etc.) attention of a sexual nature
- sexual or physical contact, such as slapping, kissing touching or hugging
- intrusive questions about sexual activity
- initiation ceremonies that involve unwelcome behaviour based on the grounds listed

A person sexually harasses another if they:

- make an unwelcome sexual advance or an unwelcome request for sexual favours to the other person
- engage in any other unwelcome conduct of a sexual nature in relation to the other person
- a reasonable person would anticipate that the other person would be offended, humiliated or intimidated.

Sexual harassment can include, but is not limited to:

- unwelcome physical contact
- requests for sexual favours or persistent requests for out of work social activities
- making, orally or in writing, any offensive or demeaning comments, questions, jokes and innuendo with sexual connotations
- making, orally or in writing, any unwelcome or uncalled for remarks or insinuations about a person's sexual activities or private life
- sending an inappropriate or sexually explicit email
- possession and/or display of sexually explicit material including posters, photographs, reading matter, objects, pictures, screen savers.

Exemptions

Certain Acts allow for some exemptions to the prohibition of discrimination, e.g. for genuine occupational requirements such as needing a full clean driver's license to meet the requirements of a position.

The Workplace

All forms of discrimination and harassment are unlawful in the course of employment and in KA activities.

Workplace Bullying and Occupational Violence directed at employees and persons working for KA is also unlawful. This extends to work activities involving employees or persons working for KA outside of standard work hours (such as any work function or sporting event, including the Christmas party), and work conducted in any location where employees are required to be (including training sessions, seminars, or other courses that may be conducted at an external location or any other site employees may visit in the course of their employment by the Company).

This Policy Also Includes Cyber Bullying

Cyber bullying includes, but is not limited to, the following misuses of technology: harassing, teasing, intimidating or threatening another person by sending or posting inappropriate and hurtful e-mail messages, instant messages, text messages, phone messages, digital pictures or images, or Web site postings (including social network sites e.g. Facebook or blogs) and is irrespective of whether the page could be viewed by the wider public or not. It can also include the sending, receiving and/or possession of naked or sexually explicit images of a person.

Employees must also be aware that postings, comments and/or messages from their individual accounts and mobile phones, whether done by themselves or another person will remain the responsibility of the account owner.

All members of KA must be aware that in certain circumstances where a crime has been committed, they may also be subjected to a criminal investigation by Police over which the relevant association and/or club will have no control. This particularly applies to 'sex ting' where the image is of a person under the age of 18 years whereby Police will be informed immediately a club becomes aware of the situation.

What Is Workplace Bullying?

Workplace bullying is defined as repeated, unreasonable behaviour directed toward an employee/volunteer or group of employees/volunteers (including managers and supervisors) that creates a risk to either mental or physical health or safety.

Examples of behaviour that could be considered workplace bullying include:

- verbal abuse of employees or workers
- exclusion or isolation of employees or workers
- psychological harassment of employees or workers

- intimidation of employees and workers
- assigning meaningless tasks unrelated to a person's employment
- assigning impossible tasks to an employee or workers
- changing work rosters to deliberately inconvenience employees or workers
- deliberately withholding information that is necessary for effective work performance of an employee or worker
- cyber bullying including online comments which could be seen as harassing, teasing, intimidating or threatening another person.

Under the Occupational Health and Safety laws in each State or Territory, employers and employees have key duties in relation to both workplace bullying and occupational violence. Employers must take all reasonably practicable steps to protect their employees' health, safety and welfare.

Employees have a duty to ensure that they do not create or increase risk to another person. Volunteers also have a duty to ensure they do not create or increase a risk to a KA employee or a person undertaking work for KA. They must cooperate with KA in adopting measures that prohibit workplace bullying or violence

The following types of behaviour by employees or directed to an employee or worker, where repeated or occurring as part of a pattern of behaviour, could be considered bullying:

- humiliating someone through sarcasm, criticism, or insults
- exclusion of a person from workplace activities
- excluding or isolating employees
- psychological harassment
- intimidation
- giving someone the majority of unpleasant tasks
- deliberately changed work rosters to inconvenience particular employees
- deliberately withholding information vital for effective work performance.
- harassing, teasing, intimidating or threatening another person by sending or posting inappropriate and hurtful e-mail messages, instant messages, text messages, phone messages, digital pictures or images, or Web site postings (including social network sites e.g. Facebook or blogs).

In the case of allegations of bullying that fall outside workplace bullying and outside this Policy, volunteers should consult KA management for advice about resolution. KA could take action against a member under the KA Constitution or Member Protection Policy in such circumstances.

What Is Occupational Violence?

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

Examples of behaviour that could be considered occupational violence include:

- striking, punching, kicking, scratching, biting, spitting or any other kind of direct physical contact
- throwing objects
- attacking with a weapon
- pushing, shoving, tripping or kicking
- any kind of indecent physical contact

Responsibilities Of All

Board members, KA Volunteers and Staff, Member States and Affiliated Clubs all have the obligation to foster a harassment, discrimination and bullying free work environment.

The employee/volunteer has to ensure their behaviour:

- meets an acceptable standard
- contributes to a productive workplace environment
- does not victimise any employee who makes a harassment or discrimination complaint
- supports investigation surrounding a complaint

Employees/volunteers will be liable for the outcome of any action in breach of this policy, which may include counselling, warnings, possible termination of employment and / or potential external legal action.

Employee / Volunteer Responsibility

Employees/volunteers should seek advice and support from a member of KA' management if they are concerned about whether or not observed behaviour is in breach of this Policy. Employees/volunteers also have the obligation to report any improper behaviour under this Policy experienced or observed to a supervisor or a member of KA' management.

Employees /volunteers can take the following actions:

- telling the person concerned to stop the offending behaviour
- lodging a formal complaint in writing to a member of KA' management
- make a complaint under anti-discrimination legislation to your local Anti-Discrimination Commission & Human Rights and Equal Opportunity Commission.

If the employee's supervisor or manager is accused of discrimination or harassment the employee has the right to seek advice from another member of management unrelated to the situation.

The employee/volunteer is responsible for deciding whether to move any complaint to the next stage of the process and may choose not to act. However, enquirers/complainants should be made aware that in some very serious cases, in compliance with obligations under anti-discrimination or occupational health and safety legislation, KA may be obliged to take further action.

All forms of workplace bullying and occupational violence, including assisting or encouraging others to engage in such conduct, are prohibited and will not be condoned. This includes conduct that takes place at work related social functions. If an employee is found to have engaged in workplace bullying or occupational violence, disciplinary action, up to and including dismissal, may be taken.

Management's Responsibility

KA, Member State and Club management are expected to protect employees/volunteers, contractors, students and others in the workplace. Management must ensure that this policy is actively pursued. This includes ensuring that no employee/volunteer is subjected to discrimination, harassment, workplace bullying and those complainants and witnesses are not disadvantaged in any way as a result of lodging a complaint. Management has a legal responsibility to ensure that if discrimination and harassment does occur in the workplace they take firm action to stop it.

All Board members, officers, managers and supervisors at KA, State Karting Council member of a Member State and Management Committee of an Affiliated Club are responsible for preventing harassment, discrimination and workplace bullying in their area of responsibility. Those who encourage or ignore any harassment, discrimination or workplace bullying may be disciplined, demoted, dismissed or be subject to outside legal action.

Those in management must:

- be a good role model — avoid any discriminatory assumptions and do not engage in any behaviour that might be considered as harassment
- make fair, non-discriminatory decisions, including decisions about recruitment, training or promotion opportunities, work allocation, salary and leave arrangements
- make it clear to all your employees that you will not tolerate any discriminatory or harassing behaviour
- ensure that your team's working environment is free of any discriminating material or material that may be considered harassment
- follow-up any staff behaviour changes that could indicate discrimination or harassment is occurring
- act immediately if you witness or are told about any discrimination or harassment

False Accusations

Any allegation of harassment, discrimination and /or bullying will be viewed very seriously and subject to thorough, fair scrutiny under KA investigation process to establish whether or not they can be substantiated. Complainants should be aware that if another person can demonstrate an allegation was made maliciously this may expose them to risk of defamation proceedings.

Supporting Policies

Member Protection Policy

Social Media Policy

