



BULLYING, HARASSMENT AND DISCRIMINATION POLICY FOR MEMBERS

Part A- Introduction

1. Policy

- 1.1.** Everyone is entitled to be treated fairly and to work and/or learn in an environment free from bullying, harassment and discrimination. AOA has an ethical and legal obligation to ensure a genuine and robust approach toward providing a safe and risk-free working environment for all.
- 1.2.** AOA does not condone bullying, harassment or discrimination in any form and is committed to its prevention. This policy sets down the relevant definitions and principles that underpin AOA's commitment to eliminating harassment, bullying and unlawful discrimination within AOA or in connection to AOA.

2. Scope

- 2.1** This Policy applies to all Members of the AOA.
- 2.2** This Policy deals with bullying, harassment and discrimination.
- 2.3** Everyone is responsible for modelling and maintaining acceptable standards of conduct and promoting a safe and risk-free work/learning environment that supports individual rights and responsibilities.

Part B - Definitions and Interpretations

“AOA” means the Australian Orthopaedic Association.

“Bullying” means offensive, intimidating or insulting behaviour, abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient. It has the purpose or effect of controlling individuals, making them unsure and insecure in their relationships or roles and undermining their confidence and self-esteem. Bullying may include ridiculing or demeaning someone, setting a person up to fail, or deliberately undermining a person's confidence or competence, for example, by deliberate work overloading or unjustified constant criticism. Bullying, whether obvious or insidious, is unacceptable.

“Disclosures” means reports and complaints relating to making new or secret information known.

“Harassment” means unwanted conduct that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for that person. The

behaviour's effects, not the intentions behind it, are crucial to deciding whether harassment has occurred. A single event or a series of incidents might constitute harassment.

Harassment may take many forms including, but not limited to:

- i. physical threats or contact;
- ii. offensive jokes or language;
- iii. ostracism;
- iv. 'outing';
- v. misuse of correspondence, electronic mail or computer software;
- vi. the display of offensive material or graffiti.

Whatever the form, such behaviours are unwanted and unacceptable.

“Sexual harassment” means unwelcome, unwanted or uninvited behaviour of a sexual nature that makes a person feel offended, humiliated and intimidated and where that reaction is reasonable in the circumstances. Some forms of sexual harassment, including sexual assault, indecent exposure, stalking and obscene communications, may constitute a criminal offence. Sexual harassment is prohibited by law.

“Unlawful Discrimination” means the unfair treatment of a person or group based on prejudice. Treating a person less favourably is unlawful based on particular protected attributes such as a person's sex, race, disability or age.

“Member” means a member of the Association for the time being, unless the context indicates otherwise and as defined in section 5 of the AOA Constitution.

Part C – Background

1. Policy Statement

Under federal and state legislation, it is against the law to discriminate or harass on the following grounds:

- i. gender;
- ii. sexual orientation;
- iii. religion/belief;
- iv. age;
- v. race (which includes colour, nationality, ethnic or national origin);
- vi. physical/intellectual impairment;
- vii. marital status;
- viii. work role or status;
- ix. psychiatric/physical/intellectual disability;
- x. pregnancy.

2. Bullying

Bullying can be overt or covert. Examples of behaviour that may be considered to be bullying if they are repeated, unreasonable, and create a risk to psychological health and safety include:

- i. physical or verbal abuse;
- ii. yelling, screaming or offensive language;
- iii. unjustified criticism or disclosures, including complaints;
- iv. intimidation;
- v. psychological harassment;
- vi. deliberately excluding or isolating individuals from work-related activities;
- vii. withholding information that is vital for effective work performance;
- viii. setting unreasonable timelines or constantly changing deadlines;
- ix. setting tasks that are unreasonably below or beyond a person's skill level;
- x. denying access to information, supervision, consultation or resources such that it has a detriment to the individual;
- xi. spreading misinformation or malicious rumours;
- xii. changing work arrangements, such as rosters, meetings, etc., to deliberately inconvenience a particular individual and;
- xiii. excessive scrutiny at work.

Bullying does not include the following:

- i. a single incident of unreasonable behaviour;
- ii. reasonable management action taken reasonably, including but not limited to:
 - setting reasonable conduct expectations and standards;
 - informing a Member about unsatisfactory conduct when undertaken reasonably and/or by relevant AOA policies;
 - informing a person about inappropriate behaviour objectively and confidentially;
 - disciplinary action where appropriate.

3. Respect At Work

Under [Respect At Work](#), AOA has a positive duty to eliminate workplace sexual discrimination, victimisation and sexual harassment. Respect At Work represents an important shift from a reactionary to a prevention and remedial action approach, requiring that AOA actively prevents workplace sex harassment and discrimination rather than responding only after it occurs.

4. Discrimination

It is against the law to discriminate against people in various areas of public life because of their:

- i. race;
- ii. colour;
- iii. sex;
- iv. sexual orientation, gender identity or intersex status;
- v. pregnancy;
- vi. age;
- vii. marital status;
- viii. physical or mental disability;
- ix. family or carers' responsibilities;
- x. religion;
- xi. political opinion;
- xii. national extraction;
- xiii. social origin and/or;
- xiv. any other attribute defined in state or federal legislation.

It is also against the law to mistreat people or harass them because of the age, disability, carers' responsibilities, homosexuality, marital status, race, sex or transgender status of any relative, friend or colleague.

5. Disclosures and Complaints Handling Process

5.1 The AOA encourages the reporting of incidents of bullying, harassment and discrimination as a means of identifying and eliminating this behaviour.

5.2 If you think you may have been bullied, harassed or discriminated against, you may consider the following:

- i. Speaking with the person directly – providing you feel it is safe to do so;
- ii. Making a formal complaint with the AOA (Please refer to the AOA Complaints Handling Policy for Members);
- iii. Lodging a complaint with the [Australian Human Rights Commission](#) - if you feel the AOA has not met its positive duty on employers and persons conducting a business or undertaking (PCBUs) to eliminate workplace sex discrimination and harassment.

5.3 Complaints directed to the AOA apply to the AOA Members, including trainees, only when the matter involves AOA business or Orthopaedic Surgery training.

5.4 The AOA Members, including trainees, are responsible for dealing with disclosures and complaints in their immediate workplace – per their workplace policy and procedures. They

should also inform AOA of this complaint or grievance if they require further supportive action to remedy the situation.

- 5.5 The privacy and confidentiality of those who allege harassment and those who are alleged to have harassed are to be respected at all times.
- 5.6 Where action is taken, AOA Managers and Fellows in training roles are responsible for preventing the victimisation of staff and trainees within their area of responsibility.
- 5.7 Individuals who make a complaint in good faith are protected against defamation, as are staff who need to investigate the allegations made by the complainant. Where a complaint is motivated by ill will or malice, the person alleging harassment may lose this protection.

Part D – Other related information

The federal Parliament has passed several laws which aim to protect people from certain kinds of discrimination in public life and breaches of their human rights by Commonwealth departments and agencies.

- Age Discrimination Act 2004
- Disability Discrimination Act 1992
- Racial Discrimination Act 1975
- The Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Act 2022 (Cth) amended the Sex Discrimination Act 1984 (Cth)
- Work Health and Safety Amendment (Managing Psychosocial Risk and Other Measures) Regulations 2022 Amendment
- The Fair Work Amendment Act 2013

Further information is available at the [Australian Human Rights Commission](#) (AHRC)

SEE ALSO


- The AOA Ethical Framework
- The AOA Member Code of Conduct
- The AOA Privacy Policy
- The AOA Whistleblower Policy
- The AOA Complaints Handling Policy – For Members

ACKNOWLEDGMENTS

Portions of this policy are based on content derived from the Australian Human Rights Commission website.

Part E – Version Control

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