



THE MELBOURNE RUNABOUT AND SPEEDBOAT CLUB

**EQUAL OPPORTUNITY,
SEXUAL HARASSMENT**

&

DISCRIMINATION POLICY

Revised 2001

1. Context

In Victoria the relevant legislation covering matters pertaining to Equal Opportunity, Sexual Harassment & Discrimination is the *Equal Opportunity Act 1995 (Victoria)* and a range of Federal Legislation including the *Racial Discrimination Act 1975*, the *Sex Discrimination Act 1984*, and the *Human Rights and Equal Opportunity Commission Act 1986*. The effect of the legislation is that it is unlawful in Victoria to sexually harass another person or to discriminate against another person of a particular attribute in areas including provisions of goods and services, and in matters pertaining to club Members.

2. Commitment

The MRSBC is an Equal Opportunity Organisation. This means we make sure every Member, their Guests and Contractors of the club gets a fair go. The MRSBC is committed to ensure that the environment at the club is free from discrimination and sexual harassment. The club will not tolerate discrimination or sexual harassment under any circumstances. Disciplinary action will be taken against any Member, guest or contractor who breaches this policy. We recognize at the MRSBC that you cannot enjoy your membership or the environment of the club if you feel someone at the club is treating you unfairly, discriminating against you, or sexually harassing you.

3. Objectives

- (i) Create an environment which is free from discrimination and sexual harassment, and where all members, guests are treated with dignity, courtesy, and respect by other members and guests of the club;
- (ii) Implement awareness and strategies to ensure all members, guests and contractors know their rights and responsibilities;
- (iii) Provide an effective procedure for complaints based on the principles of natural justice;
- (iv) Treat all complaints in a sensitive, fair, timely, and confidential manner;
- (v) Guarantee protection from any victimization or reprisals;
- (vi) Encourage the reporting of behaviour which breaches this policy; and
- (vii) Promote appropriate standards of conduct at all times.

4. Behaviours which Constitute Sexual Harassment

The definition of sexual harassment is outlined in the Victoria Equal Opportunity Act 1995 (Part 5, Section 85), as follows:

- (1) A person sexually harasses another person if he or she;
 - (a) makes an unwelcome sexual advance, or an unwelcome sexual request for favours to the other person; or
 - (b) engages in any other unwelcome conduct of a sexual nature in relation to the other person in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated.

- (2) In sub-section (1) 'conduct of a sexual nature' includes;
- (a) subjecting a person to any act of physical intimacy;
 - (b) making orally or in writing any remark or statement with sexual connotations to a person or about a person in his or her presence;
 - (c) making a gesture, action or comment of a sexual nature in a person's presence.

The distress caused by sexual harassment can be the same whether the conduct is intentional or not and the law makes no concession for a lack of intention to harass. Forms of behaviour, which may initially appear mild or trivial, can constitute sexual harassment.

Sexual Harassment may be an isolated incident or a series of incidents and may include:

- Uninvited touches, kisses or embraces;
- Sexual jokes or comments, offensive telephone calls and email messages, displays of obscene or pornographic photographs, pictures, posters, screen savers and internet sites, reading matter or objects;
- Making promises or threats in return for sexual favours;
- Sexual propositions or persistent requests for dates;
- Physical contact such as patting, pinching, fiddling with a persons clothing or touching in a sexual way, familiarity such as brushing against a person or putting an arm around another person's body;
- Persistent questions or insinuations about a persons private life;
- Suggestive comments about a person's appearance or body. Staring or leering at a person or at parts of their body;
- Sexually explicit conversations, insults, taunts, comments or gestures;
- Indecent exposure;
- Requests for sex;
- Stalking.

Sexual harassment is against the law and legal action can be taken against individuals and the MRSBC where sexual harassment occurs. Persons who sexually harass another person are personally liable at law, and further, the club may be vicariously liable for the actions of the harasser.

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

5. When can Sexual Harassment Occur

A person can be sexually harassed by a Member, Guest, or Contractor of the club. The behaviour is illegal in any club related context, including meetings, social club functions, parties, and any services which the club conducts.

6. Discrimination

The MRSBC is committed to ensuring that the club is free from prohibited discrimination. Discrimination is illegal pursuant to a range of Victorian and Commonwealth legislation. It is also illegal for discrimination to occur by Clubs and Club Members. Specifically, a Club, or a member of the Committee of a Club, must not discriminate against a person who applies for membership of the Club or against an existing member of the Club. Discrimination means direct or indirect discrimination on the basis of any of the following attributes:

- Age;
- Impairment;
- Lawful sexual activity;
- Marital status;
- Physical features;
- Political belief or activity;
- Pregnancy;
- Race;
- Religious belief or activity;
- Sex;
- Parental status or status as a carer;
- Personal association (where there is a relative or otherwise) where the person who is identified by reference to any of the above attributes.

7. Discrimination can be Direct or Indirect.

- (a) Direct discrimination occurs if a person treats or proposes to treat someone with one of the above attributes less favourably than that person treats or would treat someone without that attribute, or with a different attribute, in the same or similar circumstances.
- (b) Indirect discrimination can occur if a person imposes or proposes to impose a requirement, condition, or practice, someone with an attribute does not, or can not, comply with and that a higher proportion of people without that attribute, or with a different attribute, do or can comply with and in all the circumstances, it is not reasonable.
- (c) In determining whether or not a person discriminates, that persons motive is irrelevant.

8. Responsibilities

The MRSBC has a legal responsibility to prevent discrimination and sexual harassment; otherwise it can be liable for the behaviour of its Members.

- (1) The Committee and Officers of the MRSBC have a responsibility to:
 - Monitor the club environment to ensure that acceptable standards of conduct are observed at all times;
 - Model appropriate behaviour themselves;
 - Promote this policy within the club;
 - Treat all complaints seriously and take immediate action to investigate and resolve such complaints;
 - Refer complaints to another Officer if they do not feel they are the best person to deal with the complaint.

- (2) All Members of the MRSBC have a responsibility to:
 - Comply with this policy;
 - Offer support to anyone who is being harassed or discriminated against, and let them know where they can get help and advice (they should not, however, approach the harasser themselves);
 - Maintain complete confidentiality if they provide information during the investigation of a complaint.

Each Member, guest and contractor should appreciate that the spreading of gossip or rumours may expose them personally to a defamation action.

9. Consequences of Breaching this Policy

The MRSBC takes discrimination and sexual harassment very seriously and, depending on the severity of the case, consequences can include an apology, counseling, suspension, dismissal, or other forms of disciplinary action. Disciplinary action will be taken against anyone who victimizes or retaliates against a person who has complained of discrimination or sexual harassment.

10. Complaints Advice and Procedures

The MRSBC recognizes that complaints about discrimination and sexual harassment will vary. A complaint may be against a member, guest or contractor, or they may be about individual or group behaviour. Further, the allegations might be extremely serious or relatively minor. The allegations may be admitted or denied, and depending on the nature of the allegation, a complex investigation may be required, or alternatively, the matter may be resolved quickly and informally. Because of the variables that may arise in a discrimination or sexual harassment matter, the club has mechanisms in place for dealing with such complaints.

(a) Informal Complaint Procedure

If a person believes they have been discriminated against or sexually harassed they may make a complaint to the club Executive or Committee member. Upon such a complaint being made to the club Executive, those persons will listen to the complaint and discuss the possible strategies with the individual. The aim of the informal complaints procedure is to resolve the situation at the earliest possible stage. This would normally involve the club Executive conciliating the matter without any formal notes or other procedures being undertaken. This informal procedure is suitable where the allegations are of a less serious nature, and where the complainant seeks to warn the person involved against a continuation of the harassing or discriminatory behaviour.

(b) Formal Complaint Procedure

There are a range of circumstances where the informal complaints procedure is inappropriate, particularly where the complaint involves a serious allegation of harassment or discrimination or victimization, and/or the complaint involves an allegation against the club Executive or Committee.

Again the person, who alleges the discrimination or sexual harassment, can complain to the club Executive or Committee member. Upon making such complaint, the person can indicate that they require a formal investigation of the complaint to be undertaken. The role of the Executive is not to investigate this complaint, but is to provide information to the person about the options available to him/her. If the matter is to be the subject of a formal investigation, then such investigation is to be undertaken by the club Executive. The club Executive will then conduct a formal investigation. In this formal process there is an adherence to the principles of natural justice, including the following:

- (i) The complainant is interviewed and the allegations are particularised in writing;
- (ii) The allegations are conveyed in writing to the alleged harasser;
- (iii) The alleged Harasser is given the opportunity to respond in writing and to defend themselves against the allegations. The alleged harasser has the right to have representation;
- (iv) If there is a dispute over the facts, statements from other witnesses and any other relevant evidence is gathered;
- (v) A finding is made as to whether or not the complaint has substance;
- (vi) If the complaint has substance, then a report documenting the investigating process, the evidence, is submitted to the Committee of the club;
- (vii) The Committee of the club then makes a decision in the respect of the complaint and then proceeds to implement this decision.

(c) Alternative Procedure

Individuals are not required to pursue a complaint, either formal or informal, through this complaints procedure. Individuals have the right to formalise their complaint and to approach an external agency such as the Equal Opportunity Commission, or the Human Rights and Equal Opportunity Commission. The address of the Equal Opportunity Commission is 3/380 Lonsdale Street, Melbourne, VIC 3000.

10. Conclusion

What needs to be remembered is that the MRSBC is committed to maintaining its premises free of discrimination and sexual harassment. The Executive of the MRSBC will do all in its power to prevent harassment and discrimination from happening within the club. If any member of the Executive or Committee encourages or ignores any harassment or discrimination that is happening, then that person may be disciplined, and in serious cases, dismissed. The MRSBC wishes to maintain an environment that is enjoyable for all concerned and that is totally free from harassment and discrimination.

The Equal Opportunity Officers of the club are:

The Elected Executive of the Day

.....

The Complaints Officer of the club is:

Elected Secretary of the Day

.....

SIGNED BY

.....

for MRSBC EXECUTIVE COMMITTEE