HARASSMENT POLICY

INTRODUCTION

Blue Mountains Musical Society recognises the right of every member, performer, volunteer and service provider to be able to attend rehearsals, performances and any related activity to perform their functions, roles and duties without distress or interference caused by harassment, including sexual harassment.

It is the obligation and responsibility of every member, performer, volunteer and service provider to ensure that the Society is free from harassment in all its forms.

Blue Mountains Musical Society is fully committed to its obligation to eliminate harassment in all work environments.

PURPOSE

The purpose of this document is to outline Blue Mountains Musical Society's position on harassment and to document the process which is to be followed should any grievances arise.

DEFINITIONS

Harassment is any uninvited or unwelcomed behaviour/conduct that any reasonable person would interpret as offending, humiliating or intimidating another person(s). In this document *harassment* includes sexual harassment and bullying.

A person's conduct need not be intentional to constitute harassment.

Examples of harassment include:

- offensive jokes, demeaning comments, displays of offensive material;
- racially oriented verbal abuse;
- repeated irrelevant reference to a person's racial, cultural, ethnic or religious background or affiliation;
- mocking a person's physical appearance, attributes or behaviour.

Harassment may be unlawful if it involves unwelcomed or offensive behaviour that relates to individual characteristics protected under law such as a person's race, gender, ethnic background, religion, political affiliation, sexual preference or personal attributes

Sexual harassment means any unwelcome sexual advance, unwelcome request for sexual favours, or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated or intimidated, and where that reaction is reasonable in the circumstances. Examples of sexual harassment include, but are not limited to,

- staring or leering

- unnecessary familiarity, such as deliberately brushing up against you or unwelcome touching
- suggestive comments or jokes
- insults or taunts of a sexual nature
- intrusive questions or statements about your private life
- displaying posters, magazines or screen savers of a sexual nature
- sending sexually explicit emails or text messages
- inappropriate advances on social networking sites
- accessing sexually explicit internet sites
- requests for sex or repeated unwanted requests to go out on dates
- behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications

Behaviour that is based on mutual attraction, friendship and respect is not sexual harassment.

Bullying means unreasonable behaviour toward a person or group of people that creates a risk to health and safety and includes victimising, humiliating, intimidating or threatening. Whether a behaviour is unreasonable can depend on whether a reasonable person might see the behaviour as unreasonable in the circumstances.

Examples of bullying include:

- behaving aggressively
- teasing or practical jokes
- pressuring someone to behave inappropriately
- excluding someone from Society-related events or
- unreasonable demands.

Bullying does not include an authorised BMMS representative such as an appointed Director or other authorised creative, the producer, or (in relevant circumstances) a committee member making decisions about poor performance, take disciplinary action, and direct and control the way rehearsals, performances or other Society related activity is carried out. Reasonable management action that's carried out in a reasonable way is not bullying.

POLICY

Blue Mountains Musical Society will not tolerate harassment or bullying under any circumstances. Responsibility lies with every Committee member, production team member, and Society member/performer/volunteer/service provider to ensure that harassment or bullying does not occur.

Both federal and state anti-discrimination legislation provide that sexual and certain other forms of harassment are unlawful in circumstances such as the provision of goods and services as well as employment.

This policy applies to conduct that takes place in a Society-related context, including auditions, rehearsals, performances and social functions and events.

No Society member/performer/volunteer/service provider at any level should subject any other Society member/performer/volunteer/service provider, patron or visitor to any form of harassment or bullying.

A breach of this policy will result in disciplinary action, up to and including dismissal from current voluntary or performance role and termination of membership or contract

Blue Mountains Musical Society strongly encourages any person who feels they have been harassed or bullied to take immediate action. If a person feels comfortable in doing so, it is preferable to raise the issue with the other person directly with a view to resolving the issue by discussion. The person should identify the harassing or bullying behaviour, explain that the behaviour is unwelcome and offensive and ask that the behaviour stops.

Alternatively, or in addition, they may report the behaviour in accordance with the relevant procedure. Once a report is made the organisation has the right to determine how the report should be dealt with in accordance with its obligations and this policy.

Any reports of sexual and other harassment will be treated seriously and promptly with sensitivity. Such reports will be treated as completely confidential up to the point where a formal or informal complaint is lodged against a particular person, at which point that person must be notified under the rules of natural justice.

Complainants have the right to determine how to have a complaint treated, to have support or representation throughout the process, and the option to discontinue a complaint at any stage of the process.

The alleged harasser also has the right to have support or representation during any investigation, as well as the right to respond fully to any formal allegations made. There will be no presumptions of guilt and no determination made until a full investigation has been completed.

No person will be treated unfairly as a result of rejecting unwanted advances. Disciplinary action may be taken against anyone who victimises or retaliates against a person who has complained of harassment or bullying, or against any person who has been alleged to be a harasser.

Persons may have the right to seek the assistance of the relevant tribunal or legislative body to assist them in the resolution of any concerns.

Committee members and production team members who fail to take appropriate corrective action when aware of harassment of a person will be subject to disciplinary action which could include termination of Society membership and/or expulsion from the relevant production.

APPROVED

by the Committee

and

AUTHORISED

by the President
Stephen Garnsey
13 September 2016

Blue Mountains Musical Society

HARASSMENT PROCEDURES

RESPONSIBILITIES

It is the responsibility of the President to ensure that:

- they understand and are committed to the rights and entitlements of all members, volunteers and contracted personel to attend work or rehearse and perform, without fear of being harassed or bullied in any form;
- they understand what constitutes an act of harassment or bullying;
- all reasonable steps are made to eliminate harassment;
- all members, employees and volunteers are regularly made aware of their obligations in relation to providing a workplace and theatre free from harassment;
- they provide an environment which discourages harassment and victimisation and set an example by their own behaviour;
- they treat all complaints seriously and confidentially; and
- they take immediate and appropriate corrective action if they become aware of any offensive action.

It is the responsibility of the Committee to ensure that:

- policies and procedures are regularly reviewed and (if necessary) amended;
- policies and procedures are complied with;
- regular guidance and education is provided to members, cast and volunteers regarding harassment, bullying and inappropriate behaviour in theatre spaces occupied by the Society;
- production team members, cast members and volunteers are aware of their obligations and responsibilities in relation to harassment, and the rights and entitlements of the cast and volunteers;
- ongoing support and guidance is provided to all persons in relation to the prevention of harassment.

PROCEDURES

Complaint Process

Harassment can occur at any level of the organisation, can be experienced by both men and women and may involve a committee member, a co-performer, a volunteer, a production team member, a service provider, or a patron. Lack of intent is no defense in harassment cases including sexual harassment.

Persons who believe they are the subject of harassment should take firm, positive and prompt action.

Where possible, the person should make the perceived harasser(s) aware that they find their behaviour offensive, unwelcome, unacceptable, and that it needs to stop immediately.

If the behaviour continues, or if the person feels unable to speak to the other person(s) directly, they should contact the President of the Society; the Producer or Stage Manager; a

committee member they feel comfortable with; or, if the person feels unable to approach anyone in person, they may send an email detailing their concerns to info@bmms.org.au

The purpose of this initial contact is to ensure the complainant is provided with support; to ascertain the nature of the complaint and the wishes of the complainant.

Informal Intervention

The contact person will explain the person's rights and responsibilities under organisation's policy and procedures.

Informal intervention may be undertaken through a process of mediation or conciliation. During informal intervention the alleged harasser will be made aware of the allegations being made against them and given the right to respond.

This procedure will be complete when the complainant and the respondent come to an agreement on the procedure to be followed. If this occurs, no record will be made of the proceedings, and any subsequent proceedings will begin anew. If this does not occur, the formal procedure should be followed.

Formal Complaints Procedure

The President may be obliged to carry out a formal investigation in relation to a complaint of harassment.

The formal procedure will be co-ordinated by the President, who will be guided, if needed, by the Executive Committee.

Formal investigations may be conducted internally (by a committee member) or by an external investigator.

An investigation involves collecting information about the complaint and then making a finding based on the available information as to whether or not the alleged behaviour occurred. Once a finding is made, the investigator will make recommendations about resolving the complaint.

The investigator may need to interview the parties involved (which may include the complainant, the respondent, and any witnesses) to obtain information regarding the complaint. The investigator will comprehensively and accurately document all information obtained during the interviews including the parties involved, timing, location, and nature of conduct complained against.

If the investigator considers it appropriate for the safe and efficient conduct of an investigation, participants may be stood down from Society activities.

Throughout the investigation process, all parties involved in the investigation will be regularly kept informed about the investigation.

Records are to be kept and filed in a confidential and secure place. These records should be kept for a period of seven years. At no time will the complainant's action been referred to other than in the specific and direct context of that complaint.

The findings as to whether harassment has occurred will be determined on the basis of the evidence, and on the balance of probabilities.

On the basis of the findings, possible outcomes of the investigation may include, but will not be limited to, any combination of the following:

- Counselling;

- Disciplinary action against the harasser (e.g. dismissal from current voluntary or performance role, termination of membership or contract);
- Official warnings that are noted in the Society's records;
- Disciplinary action against the person who complained if there is strong evidence that the complaint was vexatious or malicious;
- Formal apologies and an undertaking that the behaviour will cease;
- Conciliation/mediation conducted by an impartial third party where the parties to the complaint agree to a mutually acceptable resolution.

On completion of the investigation, all parties will be informed about the investigation findings and the outcome of the investigation.

Following an investigation concerning a harassment complaint (irrespective of the findings), the President will:

- consult with the parties involved to monitor the situation and their wellbeing; and
- educate and remind all Society personnel of their obligations and responsibilities in relation to providing a workplace free from harassment.

Outcomes will depend upon factors such as:

- The severity and frequency of the harassment;
- The weight of the evidence;
- The wishes of the person who was harassed;
- Whether the harasser could have been expected to know that such behaviour was a breach of policy;
- The level of contrition;
- Whether there have been any prior incidents or warnings.

If the investigation determines that harassment has occurred, the President must forward a summary of the complaint and the action taken to the Committee.

The President will monitor the outcome to ensure that the offensive behaviour has ceased, and that neither party has been victimised. This may involve follow-up interviews.

If there has been any substantiated victimisation, disciplinary procedures will be followed.

Confidentiality

The parties to a harassment complaint are responsible for ensuring confidentiality at all times, with respect to both verbal discussions and written documentation related to the complaint.

The number of people involved in any investigation should be kept as small as possible and limited on the basis of a genuine need to know or to be involved.

The Society is aware that complaint investigations are capable of affecting the reputations of those involved and aims to prevent innocent people being injured by breaches of confidentiality.

All parties to a complaint should be cautioned about of the legal risk (defamation) associated with disclosing allegations and counter-allegations.

Vexatious Complaints

Vexatious complaints are those complaints made:

- in bad faith without genuinely believing it to be true;
- motivated by ill will or malice;
- by indiscriminately broadcasting the allegations.

It is unlikely for a complaint to be defamatory if it is made in good faith and through the proper channels.

Disciplinary action will be taken against anyone who complains if there is strong evidence that the complaint was vexatious or malicious.

Procedures for Dealing with Criminal Conduct

Some forms of severe harassment and bullying (e.g. assault including sexual assault, stalking, indecent exposure, physical molestation, obscene phone calls) may constitute criminal conduct.

While Blue Mountains Musical Society is committed to treat most harassment complaints at a Society level as far as possible, this type of conduct is not suited to internal resolution. Such complaints should be treated by the criminal justice system.

In relation to alleged criminal offences such as assault, including sexual assault, the matter must be immediately referred to the President. All persons should be advised of the option of police intervention. It is not the obligation or duty of the Society to report such matters to the police on behalf of the complainant.

Approved

by the Committee

and

Authorised

by the President
Stephen Garnsey
13 September 2016