

RESPECTFUL WORKPLACE POLICY

OUR SHARED COMMITMENT

CAST (Confederation of Australian State Theatres) member companies are 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 recrimination or a belief that no action will be taken. **CAST urges all people associated with CAST member companies 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.

CAST are 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 a CAST member company 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 other CAST or 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 related CAST or other policies; and
 - ensuring that all impacted parties are aware of the support available with regard to any issues arising that compromise a respectful workplace.
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PURPOSE

This Policy sets out to describe the expectations of all those involved with CAST Member companies 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 CAST workplaces which includes, but is not limited to,

- board members;
- leadership and management personnel (e.g. artistic directors, executive directors, general managers, company managers, heads of department, human resources managers, managers, supervisors, producers, promoters);
- Show personnel (e.g. actors, dancers, directors, choreographers, writers, stage management, chaperones, technical crew, front of house);
- production and administrative staff;
- full-time, part-time, seasonal and casual employees;
- job candidates, including people auditioning for roles;
- student placements, apprentices, work experience students/interns;
- contractors, sub-contractors and secondees (e.g. casting, talent and freelance agents who have been contracted or sub-contracted for a specific purpose);
- 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. For this reason, this policy is not incorporate within any employment contract or contract for services.

This procedure applies in all CAST workplaces which may include touring venues, company vehicles or other places where work is carried out on behalf of the companies. (Refer Section 50AA of the Corporations Act 2001 (Cth).)

This policy applies in all CAST 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;
 - interactions regarding employment; recruitment and selection; conditions and benefits; training and promotion; task allocation; shifts; hours; leave arrangements; workload; equipment and transport;
 - on-site, off-site or after-hours work; work-related social functions (such as opening nights, after parties, award nights and industry events); rehearsals; tours; work-related travel; client functions; promotional activities; conferences; seminars or training sessions – wherever and whenever workers may be as a result of their duties;
 - use of social media and other electronic communication (e.g. Facebook/Twitter/Instagram/email/texts).
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A RESPECTFUL WORKPLACE

In all CAST companies, 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.
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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 CAST 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.

Discrimination can be either direct or indirect:

Direct discrimination is usually easy to identify and occurs when a person or group of people with a particular protected characteristic (actual or assumed) are treated less favourably because of that characteristic.

Example:

- an employer refusing to hire someone based on their age
- a worker harasses another because of their race

Indirect discrimination is less obvious and occurs when a policy or practice appears neutral yet has the effect of discriminating against those with a particular protected characteristic.

Example: a policy of only offering a particular benefit to full time workers risks indirect discrimination on the basis of sex, as a greater proportion of part time workers are female

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 worker cannot perform the inherent (essential) requirements of their job, even where reasonable adjustments are made;
- is a genuine occupational requirement (an exemption may be required, depending on the law in the relevant state or territory);
- 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'

Harassment

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 CAST member companies 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 worker to engage in sexual harassment or encourage or allow another worker 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 in the workplace 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.

Sexual harassment may be considered work-related even if it occurs outside of the workplace or outside of normal working hours, such as on tour, during work-related travel, or at an opening night, after party, industry event, promotional activity or conference.

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 workers engage in consensual, welcome and reciprocated behaviour, this is not sexual harassment. However, appropriate professionalism is expected of all workers at all times, including in relation to workers engaging in consensual behaviour. **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 worker 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 selected workers;
- deliberately withholding information, resources, support, supervision, consultation or equipment that a person needs to do their job or access their entitlements;
- unreasonable refusal of requests for leave, training or other workplace benefits;
- withholding access to opportunities;
- deliberately changing hours of work for a person or group 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. Each CAST member company has rights and obligations to effectively direct and control the way work is carried out. It is reasonable for managers and supervisors to allocate work to a worker and give fair and reasonable feedback on its workers’ 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 worker for operational reasons;
- deciding not to select a worker for promotion where a reasonable process is followed;
- 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;
- termination of employment

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 under equal opportunity law, 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-discrimination 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 workers or any allegations of inappropriate workplace behaviour occurring at CAST member companies. Where a worker considers a person's behaviour to be inappropriate, the worker should raise this with the relevant leadership or management person.

It is also unacceptable for workers to talk with other workers, 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 CAST National Grievance Resolution Procedure.

For **CAST member employees, trainees or work experience students** this could be your immediate manager, your manager's manager, the Stage Manager, Company Manager, Artistic Director, Director, Producer, Touring Show Director, Executive Director, HR Manager or anyone else in a Board or management position.

For **workshop participants** (anyone participating in a workshop, training session or similar) this could be your Workshop Coordinator, Education Coordinator or anyone else in a position of authority.

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

- Fair Work Commission: www.fairwork.gov.au
- Media Entertainment and Arts Alliance (MEAA): www.meaa.org
- Centre Against Sexual Assault: www.casa.org.au
- Employee Assistance Program (where accessible)

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 **CAST National Code of Behaviour, 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 offences.

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 workplace. Where it is found that a complaint has been made in bad faith to cause distress 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 **CAST Disciplinary Procedure**. Serious incidents of unacceptable behaviour will lead to disciplinary action including dismissal.

Workers may also be held personally liable for their own behaviour or conduct. This means that when a worker undertakes discrimination, harassment, sexual harassment, bullying, vilification or victimisation the worker 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.

Related CAST policies include:

CAST National Code of Behaviour
CAST Reporting Unacceptable Behaviour Policy
CAST Grievance Procedure
CAST Disciplinary Procedure

This policy has been developed in alignment with Live Performance Australia (LPA) guidelines.

**ADDITIONAL
INFORMATION,
SUPPORT OR AD-
VICE ABOUT THIS
POLICY**

If you have a query about this policy or need more information please contact the relevant CAST member Executive Director in the first instance.

**VERSION
CONTROL**

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