



NOTICE TO NSW RACING INDUSTRY

HARASSMENT/BULLYING

Harassment, Sexual Harassment, Bullying and Discrimination are unlawful and are not tolerated in the Racing Industry. It is fundamental that the industry and its participants recognise and value the diversity of others, and ensure that the workplace and racing environment are free from harassment, sexual harassment, bullying and discrimination. This in turn provides clarity about who we are as an Industry, as employers and our normal expectations of each other. A safe, harmonious, respectful, inclusive environment also contributes significantly to the Industry's aim to achieve a culture of performance excellence.

Racing NSW wishes to remind all employees and licensed persons of harassment and bullying policies, procedures and practices in the NSW Thoroughbred Racing Industry.

Discrimination, harassment, bullying and victimization are unacceptable and unlawful forms of behaviour. Everyone has the right to work in an environment that is free of harassment and victimisation.

Racing NSW, as the regulatory body for thoroughbred racing in NSW, provides support services to promote working environments, free of unacceptable conduct. These services include the following:

- ◆ Assistance to employers to develop Harassment/Bullying Policies
- ◆ Contact with Industry Representatives
- ◆ Racing NSW referred counsellors
- ◆ Availability of course material for trainees and apprentice jockeys
- ◆ Contact with independent bodies e.g. Safework NSW, Anti-Discrimination Board, Human Rights Commission.

If you have any information regarding any adverse conduct relating to bullying, harassment or sexual harassment, you can contact any of the Racing NSW personnel or other authorities listed on the back of this brochure under the heading – Who Can You Contact?

Racing NSW will not tolerate bullying or harassment in the NSW racing industry.

Our Stewards will enforce the Rules of Racing and will refer complaints to relevant authorities, which may include the Police where appropriate.

Harassment can take many forms whether verbal, physical, inappropriate use of social media including Facebook, Snapchat, Instagram or writing and displaying harassing material.

Racing NSW Stewards have the power to penalise any person who harasses or bullies anyone or acts in contravention of the *Sex Discrimination Act*.

WHAT IS HARASSMENT?

Harassment is any form of behaviour that:

- **You do not want**
- **Offends/humiliates/intimidates you**
- **Targets you because of gender, pregnancy, race, marital status, disability, sexuality or age.**

WHAT IS SEXUAL HARASSMENT?

Sexual harassment is any unwanted, unwelcome or uninvited behaviour of a sexual nature that makes a person feel humiliated, intimidated or offended.

Sexual harassment can take many different forms and may include physical contact, verbal comments, jokes, propositions, the display of offensive material or other behaviour, which creates a sexually hostile working environment.

Examples of sexual harassment include:

- nonconsensual touching, uninvited kisses or embraces;
- inappropriate jokes or comments; making promises or threats in return for sexual favours;
- displays of sexually graphic material including posters, pin-ups, cartoons, graffiti or messages left on notice boards, desks or common areas;
- repeated invitations to go out after prior refusal;
- “flashing” or sexual gestures; sex-based insults, taunts, teasing or name-calling; staring or leering at a person or at parts of their body;
- sexually explicit conversation;
- persistent questions or insinuations about a person’s private life;
- offensive phone calls, letters, e-mail messages or computer screen savers; stalking
- inappropriate or offensive use of social media including Facebook, Snapchat, Instagram etc

Sexual harassment can involve behaviour that would also be an offence under the criminal law. For example, physical assault, indecent exposure, sexual assault, stalking or obscene communications.

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

WHAT IS BULLYING?

Bullying is repeated behaviour that is unreasonable, by an individual or a group towards a person that creates a risk to health and safety.

It is behaviour that a reasonable person, having regard to all the circumstances, would

anticipate to be humiliating, intimidating, undermining or threatening, and which causes a risk to health and safety. There is no requirement that bullying be intentional.

Some examples of bullying include:

- abusive or offensive language or comments
- aggressive and intimidating behaviour
- belittling or humiliating comments
- practical jokes or initiation
- unjustified criticism or complaints.

WHAT IS DISCRIMINATION?

Discrimination may be direct or indirect. Direct discrimination occurs when a person is treated less favourably than another person due to a specific attribute or characteristic. The protected attributes and characteristics found in EEO legislation include gender identity, age, disability or impairment, industrial/trade union or employer association membership or activity, non-membership or activity, employment activity (e.g. enquiries about employment entitlements), lawful sexual activity, relationship status, marital status, physical features, political beliefs or affiliation or activity, pregnancy or potential pregnancy, transgender status, race, colour, national extraction or social origin, religious beliefs or activity, religious appearance or dress, sexuality, gender identity, gender history, sexual orientation, intersex status, breastfeeding, parental or carer status, profession, trade or occupation or calling, association, association with someone with a protected attribute, irrelevant medical record irrelevant/spent conviction and financial status.

The motive for the less favourable treatment is irrelevant.

Indirect discrimination is when a rule or requirement that applies to everybody unfairly disadvantages people who possess a characteristic protected by New South Wales law and is not reasonable in the circumstances.

COULD BULLYING or HARASSMENT AFFECT YOU? YES!

Everybody who is engaged in activities related to the NSW Racing Industry must be aware of their responsibilities and rights with regards to bullying and harassment

Everybody includes employers; full-time, part-time and casual employees; contractors; trainees and students who are engaged in activities in all areas of the racing industry in NSW.

HOW CAN IT AFFECT YOU?

Bullying and harassment can have a serious and damaging effect on a person's physical and mental wellbeing and in turn can then negatively impact on your life.

It can:

- affect work performance and opportunities;
- create a hostile or unpleasant work environment;
- make you insecure and fearful;
- affect your studies and future career.

WHEN AND WHERE CAN BULLYING and HARASSMENT HAPPEN?

Bullying and harassment is not just unlawful during working hours or in the workplace itself. The behaviour is illegal in any work-related context. Bullying and harassment in employment is prohibited in the following circumstances:

- *recruitment and selection* – for example, during job interviews;
- *the course of employment* – for example, at the workplace, during working hours, at work-related activities such as training courses, conferences, field trips, work functions and office Christmas parties;
- *termination of employment* – for example, where an employee is dismissed for objecting to bullying and harassment or resigns because of intolerable bullying and harassment;
- *any other circumstance* that could arise in the context of relationships such as bullying and harassment of an employee by a fellow employee, regardless of when or where it occurs.

WHAT ARE YOUR RIGHTS?

- Everyone has the right to work in an environment which is free of bullying and harassment
- Sexual harassment is against the law
- Harassment, Sexual harassment, Bullying and Discrimination are against the Rules of Racing
- Confidential complaint procedures are available.

WHAT DOES THE LAW SAY?

Sexual harassment is prohibited in Australia by the Federal *Sex Discrimination Act* and anti-discrimination laws in all States and Territories. The *Sex Discrimination Act* prohibits sexual harassment and other forms of discrimination in areas such as employment, the provision of services, education and accommodation.

Sexual harassment is a legally recognised form of sex discrimination. Sexual harassment can be a breach of an employer's common law duty to take reasonable care for the health and safety of employees. Harassment, bullying and discrimination can also be against the law. All can also be a breach of occupational health and safety legislation.

WHAT DO THE RULES OF RACING SAY?

Stewards are empowered to investigate allegations of harassment, sexual harassment, bullying and discrimination and to lay charges and impose penalties under certain Rules of Racing, including:

***AR8.** To assist in the control of racing, Stewards shall be appointed according to the Rules of the respective Principal Clubs, with the following powers: -*

(d) To regulate and control, inquire into and adjudicate upon the conduct of all officials and licensed persons, persons attendant on or connected with a horse and all other persons attending a racecourse and to punish any such person in their opinion guilty of improper conduct or unseemly behaviour.

AR 175. *The Committee of any Club or the Stewards may punish;*

(a) Any person, who, in their opinion, has been guilty of any dishonest, corrupt, fraudulent, improper or dishonourable action or practice in connection with racing.

(q) Any person who in their opinion is guilty of any misconduct, improper conduct or unseemly behaviour.

(qq) Any person who in their opinion, is guilty of engaging in the publishing or posting on any social media platform or channel any material, content or comment that is obscene, offensive, defamatory, racist, threatening, harassing, discriminating or abusive to any other person or entity involved in the racing industry.

(x) Any person who in their opinion is guilty of workplace harassment of a person while the latter is acting in the course of

his duties when employed, engaged or participating in the racing industry.

(y) Any person who in their opinion is guilty of sexual harassment of a person employed, engaged or participating in the racing industry.

(z) Any person who engages in any conduct which threatens, disparages, vilifies or insults another person (the 'other person') on any basis, including but not limited to, a person's race, religion, colour, descent, and/or national or ethnic origin, special ability/disability or sexual orientation, preference or identity, while the other person is acting in the course of his or her duties in the racing industry.

WHO IS RESPONSIBLE?

Are individual persons responsible? YES.

- Persons, including employers, employees and contract workers are personally liable

for their own acts of sexual harassment

- A person is personally liable for any act of victimisation
- A person is personally liable for causing, instructing, inducing, aiding or permitting another to discriminate (including discrimination involving harassment, bullying or sexual harassment).

Are employers responsible? YES.

- An employer is **vicariously liable*** for any acts of harassment committed by employees or agents in connection with their duties unless "all reasonable steps" were taken by the employer to prevent harassment occurring.
- Lack of awareness that an employee or agent bullied, harassed or sexually harassed another will not discharge an employer's vicarious liability.

***Vicarious liability** is an employer's legal responsibility for wrongs committed by employees in the course of work.

WHAT ARE EMPLOYEES' RESPONSIBILITIES?

- **Employees should be aware of and understand both their rights and their responsibilities. This means they should also be aware of, and comfortable with, all available avenues for complaint and support**
- **An employee must not engage in any act of victimization, bullying or harassment**
- **An employee must not cause, instruct, induce, aid or permit another person to commit an act of sexual harassment.**

All staff have a responsibility to: comply with the organisation's harassment policy; offer support to anyone who is being harassed 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. Staff should be warned that spreading gossip or rumours may expose them to a defamation action.

WHAT ARE EMPLOYERS'

RESPONSIBILITIES?

Every employer, regardless of business size, is legally required to take all reasonable steps to prevent all forms of harassment if they wish to avoid liability.

- There is no exemption in the *Sex Discrimination Act* for small business. Employers in all small businesses, whatever the size, will be vicariously liable for acts of sexual harassment committed by employees unless all reasonable steps were taken to prevent it occurring.
- Allowing bullying, harassment or sexual harassment to remain unchecked can expose employers to the cost, inconvenience and damaging publicity of legal proceedings and compensation claims.
- Employers are not only liable for their own acts of harassment. They can also be held legally responsible for sexual harassment by their employees unless all reasonable precautions were taken. It is the employer's responsibility to prove that all reasonable steps were taken. Employers must actively implement precautionary measures to minimise the risk of harassment occurring.
- It is recommended that employers develop and promote a written policy on harassment, which includes both internal and external complaint procedures. When developing a strategy to address harassment, it is recommended that employers consult with relevant parties including staff, unions, employer organisations, industry and professional associations, the Human Rights and Equal Opportunity Commission and/or State and Territory anti-discrimination agencies.

HOW TO MAKE A COMPLAINT

Seek a complaint channel that you both trust and feel comfortable with. First consult your employer's harassment policy procedures and investigate internal complaint channels. External complaint channels include:

- Racing NSW Executives and Managers
- Racing NSW Stewards
- Racing NSW referred Counsellors
- SafeWork NSW
- NSW Anti-Discrimination Board
- Human Rights Commission

WHO CAN YOU CONTACT?

Racing NSW

General Enquiries: Mr Pete Sweney
Racing NSW
Level 7, 51 Druitt St
Sydney NSW 2000
Phone:(02) 9551 7573

Confidential Enquiries:

- Stewards' Department/Investigator
Phone: (02) 9551 7500
Email: steward@racingnsw.com.au
- Welfare Officer Phillip O'Brien
Phone (02) 6332 4186
Email: pobrien@racingnsw.com.au

Stewards Contacts

The Chairman of Stewards in your region will also ensure confidentiality.

Dubbo Region

Chairman of Stewards (02) 6885 2111

Tamworth Region

Chairman of Stewards (02) 6762 2035

Port Macquarie Region

Chairman of Stewards (02) 6581 1476

Grafton Region

Chairman of Stewards (02) 6642 7661

Queanbeyan Region

Chairman of Stewards (02) 6241 3596

Wagga Wagga Region

Chairman of Stewards (02) 6921 6244

SAFEWORK NSW

Provides policies, support and guidance for employers and employees
Phone: 13 10 50

<http://www.safework.nsw.gov.au>

NSW ANTI-DISCRIMINATION BOARD

For employers: The ADB provides information, support and training services

For employees: The ADB can provide information and confidential counselling services.

Toll Free: 1800 670 812
Sydney: (02) 9268 5555
<https://antidiscrimination.nsw.gov.au>

AUSTRALIAN HUMAN RIGHTS COMMISSION

For employers: The AHRC provides information, support and training services

For employees: The AHRC provides information and confidential counselling services

Phone: (02) 9284 9600
Complaints Infoline: 1300 656 419
<https://www.humanrights.gov.au/>

FAMILY AND COMMUNITY SERVICES

Child Protection Helpline 13 21 11
www.facs.nsw.gov.au

RAPE CRISIS CENTRE

Toll Free: 1800 737 732
Text: 0458 737 732 (24hrs)
<https://www.1800respect.org.au>

WayAhead – This service has an extensive database of community contact names and numbers

Toll Free: 1300 794 991
<https://wayahead.org.au>

FULL STOP AUSTRALIA

This service provides telephone counselling.

Phone: 1800 FULL STOP (1800 385 578)

<https://fullstop.org.au/contact-us>

This website provides phone numbers for regional sexual assault services

LIFELINE

This service provides out of hours support

Phone: 131 114 <https://www.lifeline.org.au>

HEADSPACE

A national youth mental health foundation that helps young people between 12 and 25 who are going through a tough time.

Phone: 1800 650 890
<https://headspace.org.au>

MENTAL HEALTH LINE

24-hour support service across NSW that can connect you with a mental health professional

Phone: 1800 011 511
<https://www.health.nsw.gov.au/mentalhealth/services/Pages/support-contact-list.aspx>

RACING MATES

Racing Mates, established by Racing NSW, has appointed Ambassadors who are available as a port of call when industry participants are in need of a mate and can provide a crucial link between those in need and the required support.

Visit www.racingmates.com.au for further information.

❖ **Please Note: Contact information correct at time of publication.**