Maritime Law Association of Australia and New Zealand

**Code of Conduct**

# **Values**

## The Maritime Law Association of Australia and New Zealand Ltd (**the Association**) values the diversity of the people involved in its work.

## The Association aims to provide a safe, respectful and enjoyable environment for all members, volunteers, event attendees and others who interact with the Association. This requires high standards of interpersonal behaviour.

## All members of the Association and people who interact with the Association should be treated fairly and respectfully and should not (in the course of their involvement or interaction with the Association) be subjected to bullying, harassment or discrimination.

## To this end, the Association endeavours to:

### Create and maintain a respectful professional network;

### Encourage the reporting of behaviours that are in breach of this Policy;

### Provide an effective procedure for the management and resolution of complaints;

### Address all formal complaints in a sensitive, fair, timely and confidential manner;

### Ensure that a person who makes a genuine complaint does not face retaliation, victimisation or reprisals; and

### Promote appropriate standards of conduct at all times.

# **Purpose**

## This Policy aims to:

### Support an environment where all people who interact with the Association (as members, volunteers, event attendees or otherwise) are treated with dignity, respect and courtesy and are not subjected to bullying, harassment or discrimination in the course of their interactions with the Association;

### Foster an inclusive professional network where everyone is welcome and feels safe;

### Prevent and minimise behaviour which has the potential to adversely affect the harmony of the Association’s professional network and/or cause harm or injury to others;

### Assist members and others who interact with the Association to recognise behaviour that is unlawful or otherwise not appropriate; and

### Provide a mechanism for action to be taken to address inappropriate behaviour by or toward those involved in the Association.

# **Application and scope**

## This policy applies to:

### All members and volunteers of the Association;

### Non-members who attend Association events; and

### Anyone else who is otherwise involved in or interacts with the Association,

### (collectively referred to in this Policy as **Participants**).

## This Policy sets out the Association’s expectations for the conduct of Participants towards each other and to others who they may encounter when engaging in activities reasonably connected with the Association (for example when attending events or activities organised or hosted by the Association, when engaging in activities on behalf of the Association, when communicating with other members via social medica etc.).

## Any Participant can raise a concern about conduct in breach of this Policy. We encourage people to speak up for themselves and for other people. If you see it, call it out.

# **Bullying**

## Participants must not engage in bullying conduct when engaging in activities reasonably connected to the Association.

## Bullying is repeated and unreasonable behaviour directed towards a person or a group of people that creates a risk to health and safety.

## *Repeated behaviour* is persistent (i.e. occurs more than once) and can involve a range of actions over time.

## *Unreasonable behaviour* means behaviour that a reasonable person, having regard to the circumstances, would see as victimising, humiliating, intimidating, distressing, undermining or threatening.

## Bullying takes many different shapes and forms – it can be intentional or unintentional; occur face to face, over the phone, via email, text message or social media; and can occur directly or indirectly.

## The following are examples of some of the behaviours that could potentially be bullying:

### Physical intimidation and/or unreasonable physical contact, or threats of this type of behaviour.

### Persistent and unjustified criticisms (particularly about petty, irrelevant or insignificant matters)

### Constant blaming for errors without good reason.

### Extreme unprofessional criticism of target's ability.

### ‘Rules’ made up or misapplied and/or shifting targets or goalposts.

### Insults, put-downs, name-calling or being made the target of jokes, ridicule or teasing.

### Spreading gossip or false, malicious rumours about a person.

### Ignoring accomplishments and undervaluing achievements.

### Assigning only meaningless or unpleasant tasks.

### Social exclusion or isolating and/or ignoring someone on a constant basis.

### Shouting or verbal aggression.

### Taking credit for others’ achievements.

### Sabotaging a person’s work (for example by selective sharing of information or deliberately supplying incorrect or unclear information).

### Intruding on privacy.

### Making hints or threats about professional opportunities or security.

## Not all conduct or behaviours which make a person feel uncomfortable meet the definition of bullying. A single incident of unreasonable behaviour is not considered bullying.

## Examples of conduct which do not constitute bullying include:

### Firm, but fair feedback, debate or robust discussion.

### Justified and reasonable processes.

# **Discrimination**

## Participants shall not engage in behaviour which is discrimination or discriminates against any person or group of persons.

## Discrimination can take place directly or indirectly.

## Discrimination is treatment towards a person or group of persons that treats them unfairly or less favourably than someone else who is in the same or similar situation as you. Discrimination can occur directly or indirectly.

## No Participant shall discriminate against any person, including but not limited to on the grounds (or a protected attribute) of:

### Age;

### Sex;

### Gender identity or expression;

### Sexual orientation;

### Marital or relationship status;

### Having a family or not;

### Being in a relationship with or related to a certain person;

### Religious or ethical beliefs;

### Colour, race ethnicity or country of origin;

### Having any kind of disability, impairment, illness or medical condition;

### Political opinions or beliefs; or

### Employment status.

## Conduct may be discriminatory even though no offence or harm was intended.

# **Harassment**

## Participants must not engage in any form of harassment when engaging in activities reasonably connected to the Association.

## Harassment is unwelcome and unsolicited behaviour that a reasonable person would consider to be offensive, intimidating, humiliating or threatening. In some circumstances it is unlawful to harass a person or group of people because of a protected attribute (such as age, sex or race outlined above)

## Harassment can be verbal, visual, physical or electronic. It can include, but is not limited to:

### Intimidation, verbal abuse, repeated threats or ridicules;

### 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; and

### Isolating, segregating or humiliating someone based on a protected characteristic.

## *Sexual Harm*

## Sexual harm is unwelcome behaviour of a sexual nature which makes a person feel offended, humiliated or intimidated. It can be physical, verbal or written, or sent electronically via phone, email or social media.

## **J**ust because someone does not object to inappropriate behaviour in the moment does not mean they are consenting to the behaviour, or they’re not offended by it. It also doesn’t mean that the recipient can’t raise a concern about it later. Consent is not “silence” or unenthusiastic and needs to be explicit.

## High professional standards apply to all **interactions and activities in which Participants are involved in relation to the Association**. There should be no assumption that anyone is available to you sexually.

## Sexual harm can also mean any form of gender-oriented attention or behaviour that is unwanted and which is personally offensive to the recipient.

## Sexual harm can occur where a direct or indirect request is made for contact or activity of a sexual nature which contains an implied or overt promise of preferential treatment; or a threat of detrimental treatment or change to their employment status.

## Sexual harm 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 or through 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 for 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;

### Deliberately using the wrong name or pronoun of a trans-person, or persistently referring to their gender identity history; and

### Threatening to disclose or disclosing a person’s sexuality or gender identity to others without that person’s consent.

## Sexual harm is an abuse of power. Harm often happens in a relationship in which one person has more power than another – e.g., a Partner, Senior Solicitor or Barrister, Senior Legal Counsel or an officer of a company or senior member of the Association, over a member new or recently inducted to the Association or the Maritime Law industry.

## True consent means it is freely given and the consent giver is willingly participating. Sometimes, someone might verbally agree to something, but they are under pressure (either overtly or implied) and so they are not freely giving their consent.

### *Racial Harassment*

## Racial harassment occurs when a person is subjected, for reasons of race, colour, nationality or ethnic origin to behaviour that might reasonably be perceived by the receiver to be offensive or unwelcome.

## Racial harassment can include any of the following:

### Telling jokes, teasing or making comments involving race, colour, ethnicity or nationality.

### Sharing material that is offensive or hurtful an involves race, colour, ethnicity or nationality.

### Make derogatory remarks about groups or the attributes of groups based on race, colour, ethnicity or nationality.

## Behaviour can be sexual or racial harassment, regardless of whether the victim of harassment has conveyed to the person who they are being harassed by, that their behaviour is unwanted or offensive (sexual harassment); or hurtful or offensive (racial harassment).

## These are some examples of behaviours that are usually not seen as sexual harm and harassment:

### Light-hearted or casual conversation that is comfortable for both participants and appropriate to the healthy culture of the Association or environment;

### Consensual relationships; or

### Compliments that are not of a nature or frequency that becomes uncomfortable to the recipient; or

### Consoling or reassuring someone which does not make them feel uncomfortable; or

### Friendly gestures between friends or equals.

# **How to deal with conduct in breach of this Policy**

## The Association encourages Participants who feel they have been, or are being, discriminated against, bullied or harassed to discuss the issue with:

### Any member of the Board;

### A member nominated by each branch of MLAANZ; or

### A member nominated for a specific event,

### (each of whom will collectively constitute the **Safety Network**).

### Following that discussion, the Participant should consider what further action (if any) they wish to take in relation to the matter.

## Options for further action include one or more of the following:

### Attempting to resolve the matter informally in the first instance (with or without the assistance of the Association);

### Making a formal complaint to the Association;

### Making a formal complaint to their own employer or the employer of the person who has engaged in the inappropriate conduct; and/or

### Referring the matter to a professional body, external agency or the police.

## Where an issue is reported to the Safety Network, the Safety Network will take reasonable steps to:

### Assist the Participant to access information about the various options available to them outside of the Association;

### Keep the matter confidential and will only disclose matters with the consent of the Participant (or otherwise as may be required by law); and

### ensure that the Participant is not victimised by the Association as a result of raising an issue.

# **Informal Resolution**

## A Participant (complainant) may wish to attempt an informal resolution in the first instance if they feel able to deal with the problem themselves (with appropriate support) or if they prefer a method of resolution that stops short of making a formal complaint. Informal resolution may allow the complainant to control the process and to keep the problem at a low level. It may give the person alleged to have engaged in wrongdoing (respondent) an opportunity to correct their behaviour which may be better for their ongoing relationship.

## Informal resolution methods include:

### Telling the person their behaviour is offensive and asking them to stop, perhaps in the presence of a senior member of the Association or a support person;

### Writing to the person about their behaviour, requesting a change, and advising that a complaint may be made if the behaviour does not stop;

### Arranging a meeting with a facilitator (supported by the Association) to discuss the issues and reach an agreement about future behaviour; and/or

### A tikanga, Australian First Nations or other culturally informed process, as appropriate.

## Informal resolution may not be appropriate if the complainant anticipates that the respondent will respond aggressively or defensively; or if the harassment or bullying is serious or continuous; or if it concerns someone in a position of authority. Informal resolution is unlikely to be appropriate where the behaviour is potentially criminal e.g., sexual assault, threats of violence, or actual violence.

## It is important that any person involved in an informal resolution process feels safe and supported and that knows they are free to withdraw from the process at any point.

# **Making a formal complaint to the Association**

## In circumstances where informal resolution:

### is not the complainant’s preferred option;

### is inappropriate given the severity of the issue(s); or

### fails to resolve the problem,

### the Participant may choose to make a formal complaint to the Association.

## A Participant wishing to make a formal complaint should put their complaint in writing and submit it to a member of the Safety Network. If a Participant needs assistance in putting their complaint into writing, they can contact a member of the Safety Network.

## Formal complaints will be dealt with in accordance with following process:

### Firstly, the complaint will be assessed by the Board to determine the next steps. The Board will consider the following matters:

* + - 1. Does the complaint appear to be legitimate and based on reasonable grounds (i.e., does it fall within the definitions of bullying/harassment/ discrimination as set out in this Policy)?
      2. What does the complainant want to do in relation to the complaint and is this appropriate in the circumstances (e.g., informal, formal, external)?
      3. Are the actions complained of potentially criminal and should an external agency be notified rather than an investigation being conducted by the Association (for instance the police)?
      4. Are the actions complained of a potential contravention of the rules of membership or certification of a professional body or regulating agency and should the external agency be notified, for example, the Law Council of Australia or the New Zealand Law Society?
      5. Is it necessary to get expert advice or assistance on how to proceed?

### After assessing the complaint, the next steps may include the Board:

* + - 1. Getting further advice or outside support.
      2. Recommending that a facilitation or other appropriate process be undertaken to assist the parties to resolve the issues between them. The Association will explain what this means, and what the process will look like. We will discuss the possible outcomes and what the options are if this process is not successful.
      3. Reminding all members of the expected standard of behaviour and the relevant policies that apply (generally and not referring to any complainant or perpetrators). It may also be timely to consider whether organisational wide training or education should be provided.
      4. If appropriate, the Association will advise the complainant if it is the Association’s view another agency should be involved instead or in addition to any process undertaken by the Association and considering when this should occur i.e., immediately or at the conclusion of the process.
      5. Commencing a formal investigation into the allegations made against another Participant.

### *Conducting an investigation*

## Where to Board determines that it is appropriate for the Association to conduct a formal investigation, it will appoint an appropriate investigator (who may be internal or external).

## The role of the investigator is to make factual findings and (if requested) make recommendations on the appropriate course of action to take in response to those findings.

## The Board will consider the findings of the investigation and make a decision on what action will be taken as a result of those findings.

## *Complaint substantiated*

## In all cases where a complaint is substantiated the Board will take reasonable steps to ensure that the bullying/harassment/ discrimination ceases immediately and the complainant is informed of the steps taken, and is protected from any consequences of having made the complaint. At a later date, the Board will check to ensure that the behaviour has in fact stopped.

## If the complaint is substantiated the Association may have mandatory reporting obligations to any relevant professional and/or regulatory body.

## The President or one of the Vice Presidents, as appropriate, will be responsible for making any mandatory report to the relevant professional or regulatory body.

## Depending on the circumstances, the Association may also decide to:

### Suspend or revoke a member’s membership; and/or

### Restrict a person’s access to Association events or activities.

## *Complaint not substantiated*

## In the event a complaint is not upheld, the parties will be advised of this in writing.

## There may still need to be action taken to improve inter-personal relationships with the Association. For example, it may be appropriate for the Association to arrange for a facilitated meeting between the parties.

# **Roles and Responsibilities**

## Every Participant has a part to play in eliminating bullying, harassment, discrimination and other inappropriate behaviours.

## *Participants*

## All Participants have a responsibility to:

### Understand and comply with this Policy;

### Not assist or encourage others to breach this Policy;

### Speak to a member of the Safety Network if they experience or witness conduct in breach of this Policy;

### Encourage others to report conduct they experience or witness in breach of this Policy to the Safety Network;

### Not make false or frivolous complaints; and

### Maintain confidentiality if they provide information during the investigation of a complaint.

## *The Board of the Association*

## The Board has a responsibility to take reasonable steps to prevent behaviour in breach of this Policy. To meet this responsibility, the Board will endeavour to:

### Ensure that Participants are aware of this Policy and their rights and responsibilities under it;

### Enforce this policy;

### Model appropriate behaviours themselves;

### Treat all complaints seriously and deal with them in a competent, timely and sensitive manner; and

### Ensure that a Participant who makes a complaint or is a witness in a complaint, is not victimised as a result of their involvement in the complaint.

### *Safety Network*

## The Safety Network has a responsibility to ensure that:

### The person complaining of bullying/harassment/ discrimination has a copy of this Policy and understands their options for next steps.

# **Supporting Bystander Action**

## In order to create and maintain a respectful and professional network is it important that Participants are active witnesses to instances of bullying, harassment, sexual or racial harm.

## If you see or hear something that makes you uncomfortable, or you can see that is making someone else uncomfortable, don’t ignore it, even if you are not the target. Use your voice to support others in a way that you feel safe and comfortable with; This could be intervening in the moment, offering support after the fact or reporting/providing a statement about the incident that occurred.

## Speaking out at the time that potential harm is occurring can be difficult, particularly within a group setting or environment. MLAANZ encourages its Participants to be courageous in these scenarios.