

PREVENTING DISCRIMINATION, SEXUAL HARASSMENT & BULLYING POLICY

Purpose

At La Boite, we are committed to providing a safe and inclusive workplace for all our artists, employees, audiences and collaborators. We have zero tolerance for harassment and bullying. La Boite endorses the Theatre Network NSW Code of Behaviour and the principles of Responsibility, Raising Awareness and Reporting within that Code. <http://tnn.org.au/publication/view/theatre-network-nsw-code-of-behaviour-to-prevent-sexual-harassment-abuses-of-power/>

It is the duty of every staff member to treat others with dignity, courtesy and respect. We ask everyone working or volunteering at or for La Boite to consider the impact that their actions or comments may have on others and to take responsibility for their own behaviour.

Discrimination, bullying and sexual harassment are unacceptable at La Boite and are unlawful under the following legislation:

- 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).

Everyone is responsible for their own behaviour in this regard and any bullying, harassment or unwanted sexual attention, language or behaviour may result in disciplinary action. Staff (including managers) found to have engaged in such conduct will be counselled, warned or disciplined. Severe or repeated breaches can lead to formal discipline up to and including dismissal.

Scope

This policy applies to:

- board members
- all staff, including: Artistic Director/CEO; Executive Director; managers and supervisors; full-time, part-time or casual, temporary or permanent staff; job candidates; student placements, apprentices, contractors, sub-contractors and volunteers
- everyone who uses our venues including commercial hirers, co-producers and collaborators
- how La Boite provides services to clients and how it interacts with other members of the public
- all aspects of 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; conferences – wherever and whenever staff may be as a result of their La Boite duties
- staff treatment of other staff, of clients, and of other members of the public encountered in the course of their La Boite duties.

Throughout this policy the term “staff” is used to refer to people working for and with (ie collaborators) La Boite.

Implementation

Implementation of this policy will include

- inclusion in core staff Induction Manual, with signed acknowledgement of having received, read and understood the policy kept on file for all staff
- policy is highlighted at annual staff planning/training day
- the policy is available to all core staff via a printed Policies and Procedures Handbook held at Reception, and an online version available to all staff at [G:/LBTC Policies and Procedures](#)
- inclusion in casual staff (venue, technical, creative) inductions, with signed acknowledgement of having received and read the policy kept on file for all staff
- inclusion in volunteer inductions, with signed acknowledgement of having received and read the policy kept on file for all volunteers
- adherence to company policies including this one is a clause in all contracts – core staff, casual, actor, creatives, technical and project staff
- policy is introduced and key points explained on first day of rehearsals/engagement for all new projects by La Boite staff, and a copy of the policy is always available in the rehearsal room and theatre
- all venue hire and co-production contacts will include a requirement to adhere to this policy, with the policy included as an attachment to the contract
- reporting process to the Board as per this policy

Staff rights and responsibilities

All staff are entitled to:

- recruitment and selection decisions based on merit and not affected by irrelevant personal characteristics
- work free from discrimination, bullying and sexual harassment
- the right to raise issues or to make an enquiry or complaint in a reasonable and respectful manner without being victimised
- reasonable flexibility in working arrangements, especially where needed to accommodate their family responsibilities, disability, religious beliefs or culture.

All staff must:

- follow the standards of behaviour outlined in this policy
- offer support to people who experience discrimination, bullying or sexual harassment, including providing information about how to make a complaint
- avoid gossip and respect the confidentiality of complaint resolution procedures
- treat everyone with dignity, courtesy and respect.

Additional responsibilities of managers and supervisors

Managers and supervisors must also:

- model appropriate standards of behaviour
- take steps to educate and make staff aware of their obligations under this policy and the law
- intervene quickly and appropriately when they become aware of inappropriate behaviour
- act fairly to resolve issues and enforce workplace behavioural standards, making sure relevant parties are heard
- help staff resolve complaints informally
- refer formal complaints about breaches of this policy in accordance with the Reporting Process
- ensure staff who raise an issue or make a complaint are not victimised
- ensure that recruitment decisions are based on merit and that no discriminatory requests for information are made
- seriously consider requests for flexible work arrangements

Discrimination

Discrimination is treating, or proposing to treat, someone unfavourably because of a personal characteristic protected by the law, such as sex, age, race or disability.

Discrimination can occur:

Directly, when a person or group is treated less favourably than another person or group in a similar situation because of a personal characteristic protected by law (see list below).

*For example, a worker is harassed and humiliated because of their race
or
A worker is refused promotion because they are 'too old'*

Indirectly, when an unreasonable requirement, condition or practice is imposed that has, or is likely to have, the effect of disadvantaging people with a personal characteristic protected by law (see list below).

For example, redundancy is decided based on people who have had a worker's compensation claim rather than on merit.

Protected personal characteristics under Federal discrimination law include:

- a disability, disease or injury, including work-related injury
- parental status or status as a carer, for example, because they are responsible for caring for children or other family members
- race, colour, descent, national origin, or ethnic background
- age, whether young or old, or because of age in general
- sex
- industrial activity, including being a member of an industrial organisation like a trade union or taking part in industrial activity, or deciding not to join a union
- religion
- pregnancy and breastfeeding
- sexual orientation, intersex status or gender identity, including gay, lesbian, bisexual, transsexual, transgender, queer and heterosexual
- marital status, whether married, divorced, unmarried or in a de facto relationship or same sex relationship
- political opinion
- social origin
- medical record
- an association 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 personal characteristic or may have it at some time in the future.

Sexual Harassment

Sexual harassment is a specific and serious form of harassment. It is unwelcome sexual behaviour, which could be expected to make a person feel offended, humiliated or intimidated.

Sexual harassment can be physical, spoken or written. It can include:

- comments about a person's private life or the way they look
- sexually suggestive behaviour, such as leering or staring
- brushing up against someone, touching, fondling or hugging
- sexually suggestive comments or jokes
- displaying offensive screen savers, photos, calendars or objects
- repeated unwanted requests to go out
- requests for sex
- sexually explicit posts on social networking sites
- insults or taunts of a sexual nature
- intrusive questions or statements about a person's private life
- sending sexually explicit emails or text messages
- inappropriate advances on social networking sites
- accessing sexually explicit internet sites
- 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

Just because someone does not object to inappropriate behaviour in the workplace at the time, it does not mean that they are consenting to the behaviour.

Sexual harassment is covered in the workplace when it happens at work, at work-related events, between people sharing the same workplace, or between colleagues outside of work.

All staff and volunteers have the same rights and responsibilities in relation to sexual harassment. A single incident is enough to constitute sexual harassment – it doesn't have to be repeated.

All incidents of sexual harassment – no matter how large or small or who is involved – require employers and managers to respond quickly and appropriately.

La Boite recognises that comments and behaviour that do not offend one person can offend another. This policy requires all staff and volunteers to respect other people's limits.

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

Bullying

If someone is being bullied because of a personal characteristic protected by equal opportunity law, it is a form of discrimination.

Bullying can take many forms, including jokes, teasing, nicknames, emails, pictures, text messages, social isolation or ignoring people, or unfair work practices.

Under Federal law, this behaviour does not have to be repeated to be discrimination – it may be a one-off event.

Behaviours that may constitute bullying include:

- sarcasm and other forms of demeaning language
- threats, abuse or shouting
- coercion
- isolation
- inappropriate blaming
- ganging up
- constant unconstructive criticism
- deliberately withholding information 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

Bullying is unacceptable in La Boite and may also be against occupational health and safety law.

Victimisation and Gossip

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, sexual harassment or victimisation. Victimisation is against the law.

It is also victimisation to threaten someone (such as a witness) who may be involved in investigating an equal opportunity concern or complaint.

Victimisation is a very serious breach of this policy and is likely (depending on the severity and circumstances) to result in formal discipline against the perpetrator.

La Boite has a zero tolerance approach to victimisation.

It is unacceptable for staff at La Boite to talk with other staff members, clients or suppliers about any complaint of discrimination or harassment.

Breaching the confidentiality of a formal complaint investigation or inappropriately disclosing personal information obtained in a professional role (for example, as a manager) is a serious breach of this policy and may lead to formal discipline.

La Boite Reporting Process

It is La Boite's aim that all complaints and issues are resolved in a timely manner, with minimal disruption to work schedules and environment.

La Boite strongly encourages anyone who believes they have been discriminated against, bullied, sexually harassed or victimised in the workplace, or has witnessed this behaviour, to take appropriate action through the Reporting Process outlined below. We encourage everyone, under the principles of *Responsibility, Raising Awareness* and *Reporting* (see Theatre Network NSW Code of Conduct), to report instances of sexual harassment and encourage their peers to do the same.

The process for reporting is outlined below and all cases will be taken seriously and treated sensitively.

Informal complaint process.

The informal complaint process emphasises resolution rather than factual proof or substantiation of a complaint. In some cases, despite the employee preferring to use an informal complaint process, the Company might decide that a complaint is serious enough to warrant formal investigation.

Informal ways of dealing with complaints can include

- the individual who has been subjected to discrimination, bullying or harassment may wish to speak to the alleged perpetrator/s directly but may seek advice from their manager or another staff member on possible strategies;
- the individual who has been subjected to discrimination, bullying or harassment may ask their manager or another staff member to speak to the alleged perpetrator/s on their behalf – this person would then privately convey the individual's concerns and reiterate the Company policy to the alleged perpetrator without assessing the merits of the case;
- a complaint is made, the perpetrator admits the behaviour, investigation is not required and the complaint can be resolved through conciliation or counselling; or
- a supervisor or manager observes unacceptable conduct occurring and takes independent action even though no complaint has been made.

Formal complaint process

If an informal approach to resolution is not appropriate, or has not worked, staff may follow the formal complaints process. This process operates under the principles that all complaints will be listened to and taken seriously, all steps of the process will be documented, alleged perpetrators have an opportunity to be advised of the complaint and to respond, complaints will be dealt with in a timely manner, and outcomes will be appropriate to the seriousness of any substantiated complaints.

STEP ONE

Complainant reports verbally (in a confidential environment) or in writing (via email) to their line manager or another appropriate colleague and states that this is a formal complaint. If the complainant has attempted to resolve the issue informally they should include details of what has happened. The line manager will listen to and document the complaint. The line manager will ask the complainant what they would like to occur/what outcome they are ideally seeking to help inform the next step.

STEP TWO

The line manager, or other colleague, will share this complaint and any documented evidence with the Executive Director and Artistic Director/CEO who will discuss the appropriate action to be taken. This should occur within three days of the complainant making a formal complaint. (See Important Notes below)

STEP THREE

The Executive Director and Artistic Director will meet with the complainant in a safe, confidential setting to talk in more detail about the complaint. The complainant may bring a colleague or friend with them to this meeting. This should occur within a week of the complainant making a formal complaint.

STEP FOUR

The Executive Director and Artistic Director will convey the allegations in a safe, confidential setting to the alleged perpetrator, and provide full advice of the complaint in writing. The alleged perpetrator will have an opportunity to respond to the complaint and may bring a support person to the meeting. This should occur within a week of the meeting at Step Three.

STEP FIVE

The Executive Director and Artistic Director will consider all the information and discuss the outcomes of these meetings. In cases of an alleged gross breach of this policy, the alleged perpetrator may be stood down without loss of pay, or other measures may be put in place to ensure the continued safety of all staff and the continuation of normal business as much as possible. The Executive Director and Artistic Director will determine if these measures are required at this time in the process.

The Executive Director and Artistic Director will investigate the complaint, and this might include talking with witnesses on both sides, further meetings with the complainant or the alleged perpetrator and discussions with relevant line managers.

STEP SIX

The Executive Director and Artistic Director will make a finding, based on the balance of probabilities, as to whether the complaint has been substantiated. It may not always be possible to substantiate a complaint. If substantiated, the Executive Director and the Artistic Director will determine appropriate outcomes and actions which may include any combination of the following:

- counselling, coaching or mentoring
- formal written warning
- termination of employment (including without notice or pay in lieu of notice)
- the Company facilitating a meeting between the complainant and the alleged perpetrator to attempt to resolve the matter by direct discussion
- developing a process for 'moving forward'
- regular monitoring of behaviour
- further training and education
- a commitment to changing behaviour or conduct
- a change in working arrangements
- an apology

Which outcome is most appropriate in a particular case may depend upon factors such as:

- the severity and frequency of the inappropriate conduct
- the weight of the evidence against the alleged perpetrator
- the wishes of the complainant (however this will not be determinative of the matter)
- if the alleged perpetrator has been given any prior warnings for the same or similar behaviour or conduct
- training provided to the alleged perpetrator in relation to matters the subject of the complaint

Important Notes to the Reporting Process

- If an employee believes it is not possible to talk with their line manager, or the allegation is against their line manager, they may speak with any other member of the La Boite management team, the Executive Director or the Artistic Director/CEO. Co-producing partners should address concerns with the Executive Director or Artistic Director.
- During the course of the complaints process, both parties may seek guidance and/or support from a peer, trade association or union representative. These people have no influencing or implementation power, other than to assist the process through its natural course.
- All stages will be documented and kept in a secure HR complaints file. Those concerned can access these notes by contacting the Executive Director.

- If the complaint is about the Executive Director, at Step Two the complaint will only be shared with the Artistic Director; if the complaint is about the Artistic Director, at Step Two the complaint will only be shared with the Executive Director and/or the Chair. If the complaint is about both the Artistic Director and the Executive Director, at Step Two if the line manager is a member of the La Boite management team they will share the complaint directly with the Chair of the Board. If the line manager is not a member of the La Boite management team, they will share the complaint with a member of the management team who will share the complaint with the Chair.
- It can sometimes be unclear who an employee or volunteer's direct "line manager" is so the following is provided as a guide:
 - Volunteers – report to the Duty Manager on duty, or the Finance & Venue Manager
 - Casual venue staff - report to the Duty Manager on duty, or the Finance & Venue Manager
 - Casual technical staff – report to the Stage Manager or Production Manager
 - Actors and Creatives – report to the Stage Manager or Creative Producer

Reporting to the Board

The Executive Director and Artistic Director will report any formal complaints to the Board as part of regular reporting at Board Meetings. Any serious complaints or gross breach of this policy, including those which have included the involvement of police, or the stand-down of staff, will be reported to the Chair of the Board immediately.

Should a complaint be about a member of the Board, the GM and AD will take this to the Chair of the Board, except in the case of a complaint against the Chair of the Board which would be taken to the Deputy Chair.

Public Comment

Only the Executive Director, Artistic Director or Chair of the Board are authorised to make public comment if required on any issues concerning allegations of Discrimination, Sexual Harassment or Bullying. The Chair will be consulted before any public comment is made.

More Information

If you have a query about this policy or need more information please contact Zohar Spatz, Executive Director katherine@laboite.com.au 07 3007 8602

Review details

This policy was drafted by the Executive Director, with the participation of the Artistic Director/CEO, La Boite management group and the Deputy Chair of the Board, and amended by the Board from time to time.

This policy was adopted by La Boite Theatre Ltd on 19 February 2018

This policy was last updated on 19 February 2018

This policy has been developed with reference to documents from, or the work of, the following organisations:

Australia Human Rights Commission
 Theatre Network NSW
 Old Vic Theatre
 Confederation of Australian State Theatre Companies (CAST)
 Screen Producers Australia

Media Entertainment and Arts Alliance
 Royal Court Theatre
 Screen Australia