

## Policy against Discrimination, Bullying and Harassment

### Introduction

1. Women's Insolvency Network South Australia (**winSA**) does not tolerate discrimination, bullying and harassment in any form, and is committed to the eradication of such conduct from the insolvency profession.
2. winSA recognises that such conduct impacts victims and can cause them to leave the profession.

### What is discrimination, bullying and harassment

3. For the purposes of this policy:
  - 3.1 discrimination includes discrimination that is unlawful under the *Equal Opportunity Act 1984 (SA)*, the *Racial Vilification Act 1996 (SA)*, the *Racial Discrimination Act 1975 (Cth)*, the *Age Discrimination Act 2004 (Cth)*, the *Disability Discrimination Act 1992 (Cth)*, and the *Sex Discrimination Act 1984 (Cth)* (**Applicable Legislation**);
  - 3.2 bullying includes bullying that is unlawful under the Applicable Legislation, and also includes behaviour that could reasonably be expected to intimidate, offend, degrade or humiliate; and
  - 3.3 harassment includes harassment that is unlawful under the Applicable Legislation. Sexual harassment means an unwelcome sexual advance or otherwise engaging in other unwelcome communications or conduct of a sexual nature to the person harassed in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.
4. For the avoidance of doubt and without limiting the above, by way of example harassment can include:
  - 4.1 unwelcome or intrusive comments about a person's private life or the way they look;
  - 4.2 sexually suggestive behaviour, such as leering or staring;
  - 4.3 making (or attempting to make) unwanted physical contact (e.g. deliberately brushing up against someone, touching, fondling or hugging);
  - 4.4 invading personal space or maintaining close physical proximity;
  - 4.5 sexually suggestive or offensive comments, jokes or communications;
  - 4.6 insults or taunts of a sexual nature;
  - 4.7 sending sexually explicit emails or text messages;
  - 4.8 inappropriate advances on social media, email or other social mediums; and

- 4.9 behaviour that may also be considered to be an offence under criminal law such as rape, physical assault, indecent exposure, sexual assault, stalking or obscene communications.

### **winSA's grievance procedure**

5. If you have been subjected to, or have witnessed, discrimination, bullying or harassment at a winSA event, we invite you to contact the President or a Committee Member of winSA. Any discussion you have will remain in confidence and will not be raised with the winSA Committee without your consent. In addition, once raised with the winSA Committee, no further action will be taken by the winSA Committee without your consent. Action that the winSA Committee may take, subject to the wishes and consent of the person who has been subjected to the conduct complained of, includes but is not limited to:
- 5.1 recording the incident but taking no further action;
  - 5.2 making confidential enquiries of other witnesses to the conduct complained of; and
  - 5.3 meeting with the person or people complained about to discuss the conduct complained of.
6. Following the above, the winSA Committee may resolve to:
- 6.1 suspend or revoke the person's membership of winSA;
  - 6.2 preclude the person from applying for membership of winSA; and
  - 6.3 preclude the person from attending any winSA events.
7. The winSA Committee also may, upon agreement between at least two members of the winSA Committee, summarily require a person to leave a winSA event upon engaging in conduct which could reasonably constitute discrimination, bullying or harassment.
8. It should also be noted that winSA's events are professional education and networking functions and conduct engaged in at these functions is undoubtedly conduct in connection with a person's profession. Such conduct may therefore constitute:
- 8.1 discrimination, sexual harassment, another form of harassment, or workplace bullying in breach of clause 42.1 of Part A of the South Australian Legal Practitioners Conduct Rules (applying to solicitors);
  - 8.2 conduct that brings the profession into disrepute in breach of clause 5.1.2.2 of Part A of the South Australian Legal Practitioners Conduct Rules (applying to solicitors);
  - 8.3 discrimination, sexual harassment, another form of harassment, or workplace bullying in breach of clause 123 of Part B of the South Australian Legal Practitioners Conduct Rules (applying to barristers);
  - 8.4 conduct that brings the profession into disrepute in breach of clause 8(c) of Part

B of the South Australian Legal Practitioners Conduct Rules (applying to barristers);

- 8.5 behaviour that is damaging to the reputation and image of the profession in breach of clause 5.5 of the ARITA Code of Ethics (applying to ARITA members); and
  - 8.6 a breach of the Applicable Legislation.
9. Persons affected by such conduct, or who witness such conduct, therefore may wish, instead of or in addition to informing winSA, report such conduct to:
- 9.1 the Legal Profession Conduct Commissioner;
  - 9.2 the South Australian Bar Association;
  - 9.3 the Australian Restructuring Insolvency and Turnaround Association;
  - 9.4 the Australian Securities & Investments Commission;
  - 9.5 Chartered Accountants Australia & New Zealand;
  - 9.6 CPA Australia;
  - 9.7 SA Police;
  - 9.8 the Australian Human Rights Commission;
  - 9.9 the SA Equal Opportunity Commissioner;
  - 9.10 WorkSafe SA; and/or
  - 9.11 Fair Work Ombudsman.