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# Code of Conduct

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## 1. Overview

This Code of Conduct (**the Code**) provides guidance to the Australian Academy of the Humanities Fellowship, employees and others representing or otherwise involved with the Academy about what conduct is considered by the Council to be 'detrimental to the Academy' as per clause 28 of the By-Laws and a Fellow's obligations to 'promote the good of the Academy' as per clause 22 of the By-Laws.

The Council of the Academy is committed to leading a positive and ethical culture in which all persons treat each other with respect.

The Code operates alongside all existing policies and procedures of the Academy (including but not limited to the Conflict of Interest Policy and Confidentiality Agreement).

The Code and the related procedures apply to:

- All members of the Fellowship, including Fellows, Honorary Fellows and Corresponding Fellows (**Fellows**);
- Academy staff, interns and volunteers (**Employees**);
- Contractors (**Workers**); and
- Others participating in the programs, committees, events, award programs and other activities of the Academy (**Participants**).

## 2. Principles and undertaking

The Academy undertakes to provide a safe and inclusive workplace and to convene events and other activities that are safe, free from discrimination and harassment, and that encourage and promote intellectual freedom, as well as freedom of expression and exchange of ideas.

The work of the Academy is governed by our four guiding Principles which incorporate respect for independence, academic freedom and integrity, collegiality and collaboration, and diversity and equality, including respectful interactions that do not tolerate any form of harassment (including sexual harassment).

The Academy acknowledges Australia's First Nations peoples as the traditional owners of the land on which we work and respects their continuing culture. We undertake to provide culturally safe places of work, meetings and events that respect the individual experience of First Nations peoples.

## 3. Discrimination, harassment and bullying

**Fellows, Employees, Workers and Participants** shall not engage in discrimination, harassment (including sexual harassment), or bullying (definitions are provided the Fair Work Commission).

Such behaviours are at odds with the principles of the Academy and negatively impact the individuals and teams involved, the organisation and the sector as a whole.

Discrimination and all forms of harassment, including sexual harassment, is unlawful under the *Sex Discrimination Act 1984* (Cth), *Age Discrimination Act 2004* (Cth), the *Disability Discrimination Act 1992* (Cth) and the *Race Discrimination Act 1975* (Cth). An organisation can be vicariously liable for the unlawful actions of its employees and agents.

Discrimination is less favourable treatment of someone because of their sex, sexuality, gender identity age, disability or race and includes conditions or requirements that disadvantage persons because of one of these attributes which is not reasonable.

Examples of harassment include spreading rumours/gossip, isolating peers, racial slurs, mocking, stereotypical comments that are demeaning, direct threats of harm, swearing or abuse, destruction of property.

Sexual harassment takes many forms. It can occur during person-to-person interaction or in writing (hard copy, email, text message etc.). While there is no comprehensive list, the following are examples of conduct that could be found to be sexual harassment:

- Unwelcome comments about appearance, dress, hairstyles.
- Jokes of a sexual nature or about a person's sexual orientation or gender identity.
- Sexual objectification of people.
- Sexually explicit comments including in emails, SMS, phone messages or via social media.
- Intrusive questions or comments about another person's private life, gender identity, sexual orientation, sexual relationships and/or sexual practices.
- Forced physical intimacy, e.g., touching, grabbing, massaging, hugging, cornering or kissing.
- Requests or pressure for sex or other sexual acts in exchange for favourable treatment.
- Actual or attempted sexual assault or rape.

Examples of bullying include:

- Behaving aggressively towards others.
- Teasing or playing practical jokes.
- Pressuring someone to behave inappropriately.
- Excluding someone from work-related events.
- Unreasonable work demands.

## 4. Conduct directly associated with the Academy

**Fellows, Employees and Participants** participating in Academy activities or representing the Academy in any official capacity are expected to maintain a standard of conduct in their dealings with and on behalf of the Academy that:

- Is consistent with the Academy's Principles.
- Supports and promotes diversity, participation, inclusivity, intellectual freedom and freedom of expression.
- Is courteous and respectful of others.
- Upholds the high-standing and reputation of the Academy in the community.
- Accords with applicable legislation and organisational policies regarding bullying, harassment (including sexual harassment) and discrimination.

Upholding the Code requires individuals to maintain an awareness and control of their own conduct and interaction with others. It also requires individuals to be aware of the conduct of others and to intervene when such conduct is inconsistent with or contrary to the standard of conduct set out above. This intervention may be direct, by intervening personally, or indirect, by alerting relevant officials in to promptly address the situation.

Actual or possible breaches of this Code in the context of Academy activities will be subject to action including investigation, early resolution and if warranted disciplinary action as set out in the **Appendix**.

## 5. Conduct external to the Academy

**Fellows, Employees and Participants** are expected to maintain a standard of conduct in their professional and private lives that:

- Does not undermine the Academy's standing and reputation, or bring the Academy into disrepute
- Accords with applicable legislation and organisational policies regarding bullying, harassment and discrimination.

In general, the Academy will not investigate allegations of misconduct outside of its own activities or workplace context. However, if it becomes aware of actual or possible behaviours that may either undermine or damage its standing and reputation, or present an actual or potential risk of physical or psychological harm – currently or in future – to those under its duty of care, the Academy may exercise any or all of the following actions:

- **Fellows:** warning or expulsion of membership, per clause 28 of the Academy's By-Laws.
- **Employees:** investigation and potential disciplinary action (warning, counselling, performance management, probation, suspension or termination).
- **Participants:** exclusion from future Academy activities.

Instances that may trigger such actions include, but are not limited to:

- Public comments (lectures, articles, social media posts etc) beyond the accepted bounds of academic freedom that directly undermine the reputation of the Academy, its Principles, or the reputation of any of its **Employees or Fellows**, or which knowingly publicise confidential Academy information.
- Civil or criminal legal proceedings relating to alleged actions that, if occurring in an Academy context, may present a risk of physical or psychological harm to others.
- Other organisations' investigations or disciplinary procedures relating to alleged actions that, if occurring in an Academy context, may present a risk of physical or psychological harm to others.

## 6. Representation

**Fellows, Employees, Workers and Participants** may represent themselves or their employers and take positions in their personal capacity. However, **Fellows, Workers and Participants** may not present themselves as representing the Academy, nor represent any position not stated in an Academy document as being that of the Academy, without the explicit prior approval of the Academy's President and/or Executive Director.

## 7. Use of Information

Confidential information is information obtained or developed in the course of the conduct of the Academy's business and which if disclosed could lead to risk, damage or injury to the Academy's interests, its **Fellows, Employees, Workers and/or Participants**.

All **Fellows, Employees, Workers and Participants** must abide by the Academy's Confidentiality Agreement, Archives Access and non-Disclosure Policy, and:

- Protect confidential information.
- Only access confidential information when it is required for work purposes.
- Not use confidential information for any unofficial or non-work purposes.
- Only release confidential information if authorised to do so.

**Fellows, Employees, Workers and Participants** are only permitted to release confidential information in accordance with established policies and procedures. As a guideline, staff shall not give information unless:

- Required to do so by law.
- Appropriate authority has been granted to release the information.
- The information is officially available to the public and is released in accordance with the Academy's procedures.

## 8. Conflict of Interest

All **Fellows, Employees and Workers** will conduct themselves in accordance with the Academy's Conflict of Interest Policy.

No **Fellow or Employee** may sign off on or manage a contract with a related party where that individual has a significant and/or material conflict of interest.

## 9. Addressing breaches and alleged breaches

The protocol for addressing breaches and alleged breaches of this Code of Conduct is set out in the **Appendix**.

## 10. Authority and review

This Code of Conduct and associated protocol have been approved by the Council of the Academy as its formal statement of expectations of conduct, and protocol for handling observed or alleged breaches of the Code.

The Code and protocol are subject to change and will be reviewed by the Council at least biennially.

**Agreed by Council:** 17 November 2021

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# Appendix

## CODE OF CONDUCT: BREACH AND ALLEGED BREACH PROTOCOL

### 1. Protocol

This protocol provides guidance regarding how the expectations outlined in the Code of Conduct will be upheld in response to a breach and/or alleged breach. The principles on which these guidelines and procedures are based are as follows:

- A commitment to investigating, and where warranted, acting on reported instances of possible breaches of the Code of Conduct in a prompt and decisive manner.
- Upholding the Academy's duty-of-care and legal obligations to prevent and address discrimination, bullying and harassment (including sexual harassment), and to protect the health and safety of Employees and others involved in Academy activities as far as is reasonably practicable.
- Ensuring clear and accountable processes for incident reporting that respect the confidentiality of those reporting or alleging incidents, and protect their safety and wellbeing.
- Ensuring clear and transparent processes for resolving or investigating reports and allegations, that aim to ensure fairness and due process for all parties involved, including the right of appeal.

As guidelines cannot cover every circumstance or eventuality the Academy's policy with respect to handling breaches of this Code is that those experiencing or observing such a breach should apply their own judgement in responding in the first instance.

Individuals who respond to such situations in good faith, using their best judgement and in accordance with these principles will not be penalised or in any way disadvantaged for doing so.

The Guiding principles upon which such judgements should be based include:

- Ensuring one's own and other people's physical and psychological safety and wellbeing. This may include leaving or removing an individual from a situation, seeking assistance from colleagues, supervisors, officials or more senior colleagues to do so, taking appropriate action to diffuse conflict or tension, or, if deemed necessary, escalating a situation to relevant authorities.
- Intervening within the bounds of one's confidence and authority to prevent or stop inappropriate behaviour if it is or could negatively impact others. For example, politely challenging inappropriate behaviour, calling a break in proceedings, changing a topic of conversation or discussion, or intervening to divert one or more individuals away from a situation.
- Documenting observed or experienced breaches to the extent possible, and through the mechanisms outlined here.

### 2. Reporting Protocol

Individuals experiencing or observing inappropriate behaviour or breaches of this Code are encouraged to document their observations and report such behaviour or breaches, even if the breach appeared relatively minor or was not experienced in a negative or distressing manner. Reports of breaches of this code should proceed as follows:

- **Fellows** should report breaches of the Code to the President or Vice President of the Council or ED. Fellows may make a report about the conduct of the President, Vice President or the ED to one of the other office-holders.

- **Employees and Workers** should report breaches of the Code to their direct supervisor or manager. If the report concerns their supervisor or manager, or they are not comfortable reporting to that individual for any other reason, the report should be made to the ED.
- With the exception of the ED, **Employees and Workers** should refrain from reporting breaches of the Code directly to members of the Council or other **Fellows or Participants** unless such action is required to deal with an immediate situation.
- **Participants** in activities of the Academy should where possible report breaches of the Code to the most senior relevant Manager. If the report concerns the relevant manager, or if they are not comfortable reporting to that individual for any other reason, **Participants** should report the matter to the ED.

### 3. Resolution Procedures

On receipt of a report of a breach of the Code, the President, Vice President or ED, as appropriate, will be notified in confidence, even if the individual making the report has requested that no action be taken. The President or the ED, in consultation with the Vice President, as appropriate, will then determine the steps for resolution.

The President, or the ED, in consultation with the Vice President may determine not to take any further steps to resolve complaints where it appears the complaint has not been made in good faith.

Unless there are compelling reasons otherwise, the subject of the report should be notified that a report has been made – with the identity of the reporter kept confidential as necessary – and should be given the opportunity to respond to the report and to participate in a transparent resolution process.

No individual, including **Fellows** who may be members of Council, will be involved in the conduct of an investigation or the determination of disciplinary action in response to an alleged breach in which they are a named party.

Where any **Fellow** with an identified role within the business of Academy is subject to an allegation Council may elect to temporarily suspend their duties and elect another **Fellow** to fulfill certain or all of their duties. Any such arrangement may continue until such a time as the investigation and any ensuing disciplinary action is concluded.

Options for resolution are as follows:

#### 3.1 Informal resolution

Where possible, reports of alleged breaches of the code should be resolved informally and confidentially through any or all of the following:

- Discussion between a relevant Academy official (whether **Employee or Fellow**) and the individual(s) concerned.
- Facilitated conciliation and mediation either by an un-involved Academy official or a professional mediator, as appropriate.
- Agreed resolution such as a formal apology, commitment to change behaviour, undertake training or withdrawal from an activity, as appropriate.
- Provision of support, such as pairing with a mentor, access to counselling or other professional support services, as warranted.

### 3.2 Formal investigation

Where informal resolution is insufficient to resolve a matter, where allegations are disputed, or where the alleged or observed breach of the Code is deemed by Academy officials to be sufficiently serious, formal investigation procedures may be instigated.

Such investigations may be conducted in different ways depending on the circumstances and nature of the alleged breach, as follows:

- **Alleged breaches by Fellows or the ED** will be investigated by the Council, which may establish an ad hoc subcommittee of Council and/or engage an independent investigator to undertake any detailed investigation required.
- **Alleged breaches by Employees, Workers and Participants** will be investigated by the ED in consultation with the President or Vice President. The ED may engage an independent investigator to undertake any required detailed investigation.
- **Alleged misconduct by Participants in Academy activities** will generally be investigated either by **Employees** (including but not limited to the ED), by an investigation Committee established for that purpose, or by an independent investigator, as determined by the ED and the President.

When formal investigations are deemed necessary the Academy will aim to commence the investigation as soon as possible after the incident has occurred. The Academy also aims to conduct investigations in a fair and transparent manner that protects the identity and reputation of those involved, so far as is reasonable and possible, while the investigation is underway.

Those responsible for conducting formal investigations will provide a written report in a timely fashion, with recommendations for action. In general, the subject(s) of the investigation, and in some cases the instigator of a report or allegation, will be given an opportunity to review the report and to provide a response that will be considered alongside the report by the Academy officials responsible for investigating the allegation.

Investigating officers may, at their discretion and without prejudice, stand down an **Employee or Worker**, or request that a **Fellow or Participant** refrain from participation in certain or all activities of the Academy while an investigation is underway.

## 4. Disciplinary Action

If a finding is made that the Code has been breached, disciplinary action may be taken. The disciplinary action will be determined by the Council or ED (in consultation with the President or Vice President where appropriate).

The person accused of a breach of the Code will be given an opportunity to respond to the allegations and proposed disciplinary action prior to any disciplinary action being determined.

Consistent with the Charter and By Laws, disciplinary action could include: a written warning; for **Fellows**, expulsion from the Fellowship; for **Employees**, counselling, performance management, mentoring or supervision to assist in addressing behaviour, counselling, performance management or termination of employment; for **Participants**, suspension or exclusion from a particular Academy event or activity or from all future events and activities.

In addition to the above disciplinary action, if a **Fellow's** or **Participant's** conduct is considered to be sufficiently serious, the Council or ED may notify the **Fellow's or Participant's** primary employer or sponsoring organisation of the sustained conduct and disciplinary outcome.

Harassment, including sexual harassment, and bullying may also be considered an offence under criminal law. In that instance, the Council or ED may be required to refer the issue to the State or Territory Police.

## 5. Appeal Procedure

Both the instigators and the subjects of formal allegations of breaches of this Code may appeal the outcome of an investigation, including the decision to undertake informal resolution and/or disciplinary action.

Appeals against decisions made by the ED will be assessed by the President and Vice President who will consult with the Council and/or ED as appropriate. Appeals against decisions made by the Council may be conducted by the Council or – at the request of the appellant – by an independent third party appointed by the Council.

Action may include:

- Declining the appeal.
- Reviewing all or part of a decision.
- Re-opening an investigation with the same or a different investigator.
- Presenting the information and decision-making process for review to a committee of the Council or an independent reviewer.
- Ceasing further investigation or action.

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*No part of this Code of Conduct prevents or limits the legal right of any individual to take any action through legal means including by making an external complaint to a State or Territory Anti-Discrimination Board or Commission, the Australian Human Rights Commission or the Fair Work Commission although time limits apply to each of these procedures.*

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