



Bullying & Harassment Policy – SCA Ltd. & SCANZ, Inc.

Contents

Contents 1

1. Overview	2
1.1 Purpose	2
1.2 Scope	2
2. Definitions	2
3. Bullying	2
3.1 Bullying is not	2
3.2 Behaviour focus test	3
4. Harassment, discrimination and other unacceptable behaviour	3
4.1 Under the Human Rights Act 1993 – New Zealand	3
4.2 Under the Harassment Act 1997 – New Zealand	3
4.3 Under the Australian Human Rights Commission Act 1986	4
4.4 Violence	4
5. Managing allegations	4
5.1 The complainant	5
5.2 The respondent	5
5.3 Organisational responsibility	5
5.4 Personal responsibility	5
6. Process for managing bullying or harassment complaints	6
6.1 Purpose	6
6.2 Informal or initial process	6
6.3 Formal Investigation Process	7
6.4 Sanctions	7
7. Procedurally and substantively fair investigations	7
7.1 The Hearing rule	7
7.2 The Bias rule	7
7.3 The Evidence rule	8
7.4 Broad rules of Natural Justice/Procedural fairness:	8
Appendix I: Making a bullying and harassment complaint	9
Complainant:	9
Respondent	10
Appendix II: Formal Complaint Form	11

Reference Table

Legislation	<ul style="list-style-type: none"> Human Rights Act 1993 (New Zealand) Harassment Act 1997 (New Zealand) Australian Human Rights Commission Act 1986 (Australia) Fair Work Act 2009 (Australia)
Policies	<ul style="list-style-type: none"> SCA, Inc. Sanctions Guide SCA, Inc. Corpora Lochac Kingdom Law Rules of the Society for Creative Anachronism New Zealand, Inc. Constitution of the Society for Creative Anachronism Australia
Other	<ul style="list-style-type: none"> www.eeotrust.org.nz www.humanrights.gov.au

1. Overview

1.1 Purpose

The purpose of this document is to provide:

- Definitions for identifying bullying or harassment
- An overview of the process for managing bullying and harassment in the SCA Ltd and SCANZ, Inc.
- An overview of the roles involved in dealing with a bullying or harassment claim

1.2 Scope

This policy applies to all persons participating in SCA related events or activities including, but not limited to, feasts, tournaments, regular meetings, practices, and online activities including mailing lists and social media as well as any other online space used by and/or for SCA participants.

2. Definitions

For purposes of this policy, the following definitions will apply:

- SCA: SCANZ, Inc. and the SCA Ltd, collectively and individually
- Complainant(s): The person or persons who believe they are subject to bullying or harassment
- Respondent(s): The person or persons against whom allegations have been made

3. Bullying

The SCA defines bullying as **persistent, unreasonable** and **unwelcome** behaviours which have a detrimental effect on the individual's enjoyment of the SCA. Unreasonable behaviour is behaviour that could reasonably be seen to be offensive, humiliating, intimidating, degrading, or threatening. These behaviours may be covert and/or overt and include, *but are not limited to*:

- Verbal abuse
- Unjust criticism
- Threats
- Sarcasm and teasing
- Using threatening language
- Frequent nit-picking and fault-finding
- Using rank, title, or office to intimidate others
- Gossip or false rumours spread with malicious intent
- Consistently discounting the statements of the individual(s)
- Withholding of information required to participate or perform duties of office
- Comments and behaviour making you feel less important and undervalued
- Refusal to acknowledge, or diminishing, a person's contributions and achievements
- Repeated hurtful remarks or attacks, or making fun of your work or you as a person
- Exclusion or isolation of individual(s) from a group or activity (includes ignoring or not acknowledging a person's presence)

3.1 Bullying is not

- one-off or occasional instances of forgetfulness, rudeness or tactlessness
- a single incident of unreasonable behaviour

- As regards officers, Committee/Board members, the Crown and their representatives in regard to the execution of their role and management of their subordinate officers, deputies, or representatives, bullying is not:
 - setting high but reasonable performance standards of conduct and performance
 - providing constructive feedback and legitimate advice
 - requiring reasonable verbal or written work instructions to be carried out

3.2 Behaviour focus test

The test for bullying is the reasonableness of the behaviour and the impact of that behaviour on the recipient.

4. Harassment, discrimination and other unacceptable behaviour

These behaviours are not legitimate on the grounds that they are counter to mundane law. Such acts should be reported to the appropriate authorities. **For the purposes of this policy, the term harassment will be used inclusive of the behaviours below.**

Notwithstanding any legal proceedings or outcomes, the Committee/Board reserves the right to investigate complaints and/or undertake sanctions.

4.1 Under the Human Rights Act 1993 - New Zealand

Discrimination (*sometimes referred to as harassment*) is unwelcome or offensive verbal or physical conduct in relation to sex, marital status, religious belief, ethical belief, race, ethnic or national origins, disability, age, political opinion, employment status, family status, or sexual orientation which is either persistent, or of such a nature that it has a detrimental effect on the individual. These behaviours include, but are not limited to:

- Mocking or disrespectful remarks about any of the above
- Exclusion from an activity or group due to any of the above
- Verbal or physical conduct of a sexual nature
- Unwelcome and/or suggestive scrutiny of physical characteristics
- Unwelcome physical contact
- Improper suggestions
- Verbal innuendo
- Jokes or comments
- Display and/or distribution of offensive printed or electronic material

4.2 Under the Harassment Act 1997 - New Zealand

Under this legislation, harassment takes place when someone directs one or more specified acts at another person (including watching, loitering, following, accosting, interfering with another person's property or acting in ways that causes the person to fear for their safety) at least twice in a 12-month period. Harassment has the potential to cause humiliation, offence or intimidation. It's usually repeated behaviour but even one instance may cause reasonable concern. The Harassment Act considers certain serious types of harassment as criminal offences, and allows the person being harassed to obtain trespass orders or restraining orders against the offender. It also puts in place sanctions for breaches to the Act.

4.3 Under the Australian Human Rights Commission Act 1986

‘Unlawful discrimination’ is defined by s 3 of the AHRC Act as follows:

unlawful discrimination means any acts, omissions or practices that are unlawful under:

(aa) Part 4 of the Age Discrimination Act 2004; or

(a) Part 2 of the Disability Discrimination Act 1992; or

(b) Part II or IIA of the Racial Discrimination Act 1975; or

(c) Part II of the Sex Discrimination Act 1984;

and includes any conduct that is an offence under:

(ca) Division 2 of Part 5 of the Age Discrimination Act 2004 (other than section 52); or

(d) Division 4 of Part 2 of the Disability Discrimination Act 1992; or

(e) subsection 27(2) of the Racial Discrimination Act 1975; or

(f) section 94 of the Sex Discrimination Act 1984.

The particular grounds of unlawful discrimination under the RDA, SDA, DDA and ADA can be summarised as follows:

- race, colour, descent or national or ethnic origin;
- sex;
- marital status;
- pregnancy or potential pregnancy;
- family responsibilities;
- disability;
- people with disabilities in possession of palliative or therapeutic devices or auxiliary aids;
- people with disabilities accompanied by an interpreter, reader, assistant or carer;
- a person with a disability accompanied by a guide dog or an ‘assistance animal’; and
- age.

Also falling within the definition of ‘unlawful discrimination’ is:

- offensive behaviour based on racial hatred;
- sexual harassment; and
- harassment of people with disabilities.

4.4 Violence

Acts of violence towards a person can be verbal (verbal abuse, threats, shouting, swearing) or physical (stalking, throwing objects, hitting, damage to property). Acts of violence may be illegal, and may be referred to the police (charges may be laid under criminal law).

5. Managing allegations

Any allegation of bullying will be treated seriously and sensitively. Complainants will be provided with information about the options available to assist them to make an informed decision about how to proceed.

Participants may approach their local seneschal for support and advice in the first instance. Where this is not reasonable or possible, first contact may be made with the kingdom seneschal. In such instances, complaints may be referred back to the local seneschal at the kingdom seneschal’s discretion.

The SCA will attempt, where possible, to facilitate an informal process for the resolution of allegations of bullying or harassment as described in this document. Where this option is not appropriate (or successful), a formal investigation process will be initiated as described in the Lochac Dispute

Resolution and the Complaints Management/Dispute Resolution Processes. In limited instances it may be appropriate to initiate this process as a first step at the kingdom seneschal's discretion. Any outcomes will be in accordance with the SCA Sanctions Guide.

It is understood that there are sometimes larger community issues which may contribute to bullying/harassment allegations; however the SCA can only investigate specific complaints against individuals as per the principles of natural justice / procedural fairness.

5.1 The complainant

To make a formal allegation, the complainant must provide a written statement that will be seen by the respondent. The complainant:

- has a responsibility to provide robust examples, evidence, and any witness information they have in support of their allegation
- is required to maintain courteous behaviour throughout the process
- is required to treat all information provided or received in the process as confidential except as required to provide evidence or witnesses

5.2 The respondent

If a formal allegation is made, the respondent is entitled to know the name of the complainant and details of the allegations, including a copy of the written complaint(s), as soon as possible once the allegation is made to ensure they have a fair opportunity to respond to the allegations.

The respondent:

- has a responsibility to respond to the allegations with any evidence or witness information they have to support their defence
- is required to maintain courteous behaviour throughout the process
- is required to treat all information provided or received in the process as confidential except as required to provide evidence or witnesses

5.3 Organisational responsibility

The SCA retains the right to take action to ensure that participants are safe from bullying and harassment on an individual and collective basis.

Where the SCA becomes aware of harassment or bullying related incidents, such incidents may be investigated (even in the absence of an allegation from an individual), depending on the seriousness of the issue and the nature of the information available.

The SCA retains the sole right to initiate formal investigations under the Bullying and Harassment policy.

5.4 Personal responsibility

All participants are expected to behave according to the Code of Conduct and to promote an environment built on courtesy and chivalry. To this end, participants are expected to:

- Encourage a group culture which does not tolerate bullying or harassment
- Not accept inappropriate behaviour
- Support other participants to speak out against inappropriate behaviour

When in Australia, the SCA Ltd Code of Conduct applies.

When in New Zealand, the SCA Inc. Code of Conduct applies (as available in the SCA Inc. Sanctions Guide).

6. Process for managing bullying or harassment complaints

6.1 Purpose

The purpose of this process is to ensure:

- all participants are aware of the initial informal process as well as the formal process for reporting and investigation of harassment or bullying allegations
- all allegations are dealt with in a consistent, appropriate, and timely manner

6.2 Informal or initial process

The table below describes the process to be completed when an informal or initial allegation of harassment or bullying is made.

The SCA encourages individuals to raise issues by following the process below. It acknowledges that in some cases it may be appropriate to formalise the process after stage 3.

Stage	Description
1	Perceived harassment or bullying occurs
2	Complainant or witness gets in touch with their local seneschal in the first instance
3	The local seneschal outlines the options available to the individual. Options include: <ul style="list-style-type: none"> • No action (the issues are discussed and the complainant does not want to take any action) • Self-initiated solutions – parties are encouraged to address issues directly (e.g complainant or witness approaches respondent to ask them to stop the behaviour) • Formal complaint
4	Informal action is encouraged through facilitated discussion and informal investigation wherever possible. It may be appropriate for the local or Kingdom Seneschal to conduct a brief preliminary investigation to determine whether it is reasonable to consider the complaint genuine and/or whether it is able to be substantiated before a full and formal investigation is undertaken. Should a complaint be considered vexatious by the local seneschal, an appeal may be made to the kingdom seneschal. If, after kingdom level review, the local seneschal's view is upheld, additional material evidence will be required before that complaint may be considered again.

6.3 Formal Investigation Process

A formal investigation may be carried out by the local or kingdom seneschal or an investigator appointed by the seneschal or committee/board. That report will be made available to the kingdom seneschal and potentially the Committee/Board of the SCA, depending on the severity of the allegations. The kingdom seneschal will decide the appropriate next steps once the formal investigation has been undertaken. A copy of the formal report will then be provided to the complainant, the respondent, the relevant seneschal(s) and the Crown or Committee/Board (if the recommendation is for a level of sanction that requires the Committee's/Board's approval).

Stage	Description
1	If an informal process has not resolved the concerns, a formal written complaint can be made to the seneschal (who may decide to initiate a formal investigation process in the first instance depending on the seriousness of the complaint).
2	The kingdom seneschal and Committee/Board are ultimately in charge of any investigation, mediation or any other process required to resolve the situation.

6.4 Sanctions

Where an allegation is substantiated through the investigation process, sanctions may be considered by the kingdom seneschal or Committee/Board, as appropriate.

7. Procedurally and substantively fair investigations

7.1 The Hearing rule

- No one should have a finding made about them without being able to be heard and all sides get a fair chance to tell their story
- The respondent must be informed of detail of evidence put forward about them and have a fair chance to put their own case forward
- Respondent must be informed of possible outcomes, including sanctions
- The complainant must be informed of details of any counter allegations by the other person, be informed of any possible negative outcomes including sanctions
- Both parties have the right to be informed of the steps of the investigations and the findings

7.2 The Bias rule

- Investigations must be impartial. The investigator should disclose any apparent or real conflict of interest
- Do not prejudge until all evidence has been heard. No comments should be made that could be perceived as taking sides
- Don't make promises or hint at outcomes
- Listen without bias
- Investigator must make it clear that the outcome is based on evidence, not on relevant persons, who is higher in precedence or holds higher office, who stands to lose the most, etc.

7.3 The Evidence rule

- A finding cannot be made until all relevant evidence has been considered. A finding should be made on the balance of probability
- Findings cannot be made on irrelevant information (gossip, rumour, unsubstantiated comments, hearsay, assumptions, etc.)
- Previous substantiated findings will be considered on an individual basis. Should previous findings be deemed relevant to the investigation, the person against whom findings have been made will be notified and provided with reasonable time to prepare submissions that speak to those findings. All previous findings can, however, be considered when recommendations are made.
- Intention or deliberateness is difficult to prove. It can easily be denied as a defence. Keep a focus on what has happened and the impact on people involved

7.4 Broad rules of Natural Justice/Procedural fairness:

- Complaints should be taken seriously and acted on in a timely manner
- Complaints that have been investigated and closed may not be re-investigated unless there have been substantive procedural errors made on the part of the investigators or decision makers (e.g. not agreeing with the outcome is not a valid reason to re-open an investigation of closed complaints). The kingdom seneschal, along with the Committee/Board retain the right to determine if a previous complaint should be reinvestigated, based on the evidence provided to them at that time.
- The complainant has an obligation to provide the specific allegations in writing
- The respondent has a right to know who has made a complaint against them, the specific allegations laid against them, and the facts surrounding those allegations
- The respondent must have a reasonable opportunity to respond to the complaints
- All parties to a complaint have the right to be heard
- All relevant submissions and evidence are to be considered, while matters that are not relevant to the complaint will not be taken into account when a determination is being made
- Both parties should be able to see/read and respond to all relevant evidence
- Parties should be kept informed about the progression of the investigation
- Investigations should be conducted without bias or prejudice, and without irrelevant questions, leading questions, or assumptions being made
- The person who lays the complaint must not determine the outcome (e.g. level of sanction)
- The decision makers must be fair and honest
- Both parties should receive a copy of the decision and the reasons for it. They should also be informed of any options to appeal
- Any sanctions imposed must not outweigh the actions taken by the parties

Appendix I: Making a bullying and harassment complaint

Complainant:

As the complainant, it is important that you understand the following points and carefully consider them before you decide whether or not to make a complaint:

- What do you want to achieve? What is the end result you are looking for? Is that reasonable or realistic, and how will you handle yourself if you aren't successful?
- You will generally have the option of an informal or formal process, depending on the nature of the allegations. The SCA has the sole right to investigate or not to investigate any complaint.
- In the first instance, you should contact the other party directly, either via email, by phone, or in person, to try and solve the problem informally. If that is not successful or not appropriate/possible in your view, the additional following options are generally available to you:
 - The relevant seneschal can approach the respondent on your behalf
 - You can close the matter and take no further action
 - You can file a formal complaint
- Be aware that if you make a serious allegation then the SCA has a responsibility to take action. This may include investigating your actions and responses.
- Have you considered the impact on your group (of investigating or not investigating)? Your allegations could affect comfort in the group for you, the respondent, any witnesses or other participants (possible polarisation of group). How will you help to minimise disruption to your group throughout and after the process?
- It is important that you remain courteous with all parties throughout the process
- The role of the investigator is to be objective; they cannot play the 'friend' role
- Have you checked whether the described behaviours are defined as bullying or harassment?
- Some investigations will involve you, and may bring up issues that you may not want to hear
- Formal investigations always take longer than expected, 3 months is an average timeframe
- Do you have any material evidence to support your complaint?
- Is there anyone who is likely to verify your allegations (e.g. are there any witnesses)? Will they give a statement?
- All parties to the investigation, including yourself, the respondent, witnesses, seneschal, investigator (if relevant), and Committee/Board will know about the complaint.
- You will be expected to maintain confidentiality both throughout and after the process.

Respondent

If a complaint has been laid against you, you should consider and understanding the following points:

- The SCA will always attempt, where possible, to facilitate an informal process for the resolution of allegations of harassment or bullying.
- Where this option is not appropriate or successful, a formal investigation process will be initiated. You will always be advised of the process
- You have the right to know what the allegations are, and who has made them
- You have the right to an objective investigation without preconceived ideas or bias
- It is important that you remain courteous with all parties throughout the process
- The role of the investigator is to be objective; they cannot play the 'friend' role.
- Investigations always take longer than expected, 3 months is an average timeframe
- Is there anyone who is likely to verify what you say, e.g. are there any witnesses? Will they give a statement?
- Do you have any material evidence to support your defence?
- All parties to the investigation, including yourself, the respondent, witnesses, seneschal, investigator (if relevant), and Committee/Board will know about the complaint. You will be expected to maintain confidentiality both throughout and after the process.
- You will be expected to maintain confidentiality both throughout and after the process.

Appendix II: Formal Complaint Form

Please use this form to file a formal complaint wherever possible. This will help ensure that the seneschal is in receipt of all relevant information required to consider your complaint. Once completed, please forward this to the kingdom seneschal. Please add additional spaces or pages to this form as required to provide the required information.

By filling out and return this form, you agree to the following:

The information collected and contained in this report are for the purposes of investigation, consideration and recommendation. The information is confidential and only available to the investigator, local and kingdom seneschal, complainant, respondent. The Crown or representative of the Crown and Committee/Board may also receive a copy of the report if appropriate to the circumstances. Witnesses may be provided access to only the information relevant to them. Action may generally only be taken with the complainant’s knowledge and agreement. If the complainant does not wish to take further action, identifying details of both the complainant and the respondent will remain confidential and the matter will be sealed. Where the SCA believes that a matter is serious, they may investigate without a formal complaint.

Ask the following questions to the complainant and fill in as appropriate (please add paper as required):

Have you read the Bullying & Harassment Management Policy?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have you spoken to anyone else about this matter? <i>If yes, please provide details below:</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No

Name of the Complainant: <i>Please provide SCA and mundane names</i>	
Complainant’s home group:	
Name of Respondent(s) (person(s) against whom allegations are being made): <i>Please provide SCA and mundane names</i>	
Respondent’s home group:	

Bullying & Harassment Policy – SCA Ltd. & SCANZ, Inc.

Describe the behaviour that you believe to be bullying and/or harassment:	
Where and when did the incidents occur? <i>Provide physical locations, dates and times wherever possible.</i>	
How did you respond to these incidents?	
Are there any witnesses to these incidents? <i>If yes, provide SCA names, mundane names, and home groups</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
How have you addressed or attempted to resolve this issue?	
What outcome are you looking for?	

I hereby attest that the information provided above is, to the best of my ability, a true and accurate account of the events and actions described.

Complainant Signature

Date

Complainant Name (printed)