

DE-IDENTIFIED TO PROTECT PRIVACY

Version5 10/04/2023

REPORT OF THE JUDICIARY COMMITTEE

ESTABLISHED TO INVESTIGATE COMPLAINTS OF HARRASSMENT AGAINST TWO MEMBERS OF APNSA

1.0 OVERVIEW

1.1 A number of APNSA women members have resigned since July 2022 due to a range of frustrations but including concerns about harassment and stalking. Their actions suggest APNSA is in danger of being seen as unsafe and not inclusive of women.

1.2 Two members have been the subject of concerns and their membership was suspended by APNSA subject to the outcomes of the investigation by a Judiciary Committee established for this purpose.

1.3 The Judiciary Committee (JC) comprised of Margie MacDonald, David Winderlich and Beanz although Beanz has not been able to participate in 2023.

1.4 The investigation highlighted a range of systemic issues with the approach of the APNSA in managing and relating to members that have contributed to and exacerbated the individual circumstances considered in these reports.

1.5 This report is divided into two sections, Part 1, Investigation of Complaints Against Two Individual Members of APNSA and Part 2, Systemic Issues and Changes.

2.0 PART A. INVESTIGATION OF SPECIFIC COMPLAINTS

This report, finds that:

1. The allegations against one member, [REDACTED], were very general and were probably due to his difficulty reading social cues due to his autism. He is very apologetic although confused about the charges and has cooperated fully with the investigation. His membership should be reinstated.
2. There is clear evidence of problematic behaviour by [REDACTED]. It is unclear whether his behaviour is motivated by a gendered sense of domination or some cognitive difficulty such as impulse control. There should be a meeting with him to assess if he understands why his behaviour is a problem and his membership resolved after that. In the meantime his membership should continue to be suspended for a further month from 17/02/2023. (This recommendation has been superseded by a Coordinating Committee decision.)

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3. This report has taken six months to compile due to holidays, illness and other life events of Judiciary Committee members. However that is an unacceptably long time.

The constitution of the APNSA (S6.3(b)) enables the establishment of a Judiciary Committee to “hear and determine an allegation that a Member has materially breached one or more of its obligations under this Constitution or the Rules and to make recommendations to the Anti-Poverty Network”. The power of the APNSA to make rules and discipline its membership are outlined in Section 7

The Judiciary Committee is not specified in the Rules of the APNSA however such a committee can be established under Section 15.20.

2.1 HOW WE ARRIVED AT OUR CONCLUSIONS

2.1.1 The Starting Point: The Values Underpinning Our Work

2.1.2 The Judicial Committee (JC) believes APNSA must be a safe space for its members and be particularly aware of sexism, bullying and other forms of discrimination and oppression. These behaviours should not be tolerated.

2.1.3 However we are all struggling to overcome negative aspects of our conditioning and our culture; and because we are dedicated to modelling justice and compassion, we therefore believe APNSA owes a duty of care to all members, including those behaving inappropriately or

APNSA Constitution 6.3©A member may not be expelled under clause 7.3(a) unless the Member has been afforded natural justice. APNSA Rules A dispute resolution process must allow each party a reasonable opportunity to be heard'

who have demonstrated unsafe or unacceptable behaviour.

2.1.4 Even where one member has made others feel unsafe, if they show contrition and are willing to work on improving their behaviour efforts should be made to reintegrate them into the Anti-Poverty Network.

2.1.5 The Judiciary Committee accepts this may be difficult for those who have suffered harassment in the past but feels it is an essential part of any values-based community that understands most conflict to be a result of systemic rather than individual factors. However to earn acceptance of and compassion towards potential offenders the APNSA must work doubly hard to demonstrate to women and marginalised groups that it takes their concerns very seriously and act quickly to ensure their safety and full participation.

2.1.6 Some consideration of this will be given in our second report however it will require ongoing work by all of us.

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2.2 The Investigation Process

The Judiciary Committee was established on September 8 2022. It held four meetings, (see Attachment 1 for a Chronology) provided the Co-ordinating Committee of APNSA with two reports and wrote to the members accused of harassment and the two women who raised concerns who were willing to have communication with APNSA (Attachment 3 Correspondence)

2.3 Weighing Up the Allegations Against Two Members of APNSA

2.3.1 The JC committee struggled to assess some allegations. This was partly because none of the members who made initial complaints communicated with the JC committee and most of them clearly stated that they did not want to be contacted by the APNSA.

2.3.2 In some cases all we had to go on were comments that they felt “unsafe” or “uncomfortable”. While such feelings should be taken seriously and prompt some form of investigation, they cannot be conclusive. In some cases behaviour which creates discomfort may be the result of social awkwardness or some forms of neuro-diversity or differing cultural norms.

2.3.3 In the case of [REDACTED] the lack of any specific allegation, the clear contrition and confusion he demonstrated in a meeting with David Winderlich on 19/12/2022 and the fact that he is known to be autistic lead us to conclude he can be re-admitted to full membership and can in fact help APNSA become more inclusive of neuro-diverse people. AP suggested that APNSA rules needed to be clearer and that specific examples of what constitutes harassment should be provided.

2.3.4 The most specific allegation against [REDACTED] was that he used APNSA as a “dating pool”. This allegation has been repeated second-hand but no written or verbal details have been provided despite requests to do so.

2.3.5 In another case, concern was raised about recording a members’ meeting without their consent of those present. This was seen as a major breach which of course it is. But while it is the case that [REDACTED] did record a meeting it was in no way underhand as he volunteered at that meeting that he had recorded the meeting to help the secretary prepare meeting notes. In fact the response at the time is “[REDACTED] saves the day”.

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Recording Meeting of July 23RD 2022 without consent.

Last two minutes of the State Meeting on 23rd July 2022 - Pas says he just realized that he hasn't been recording, but he has been taking down some notes. Sara: Good, I just I've only just briefly done notes, because I was expecting a recording; because it's hard to do notes and listen and engage at the same time. [REDACTED]: Well don't stress, because I've recorded the whole meeting. Anyone wants a copy of the meeting, I've got it on audio, so I'll send it through to... who do I need to send it to at APNSA? Sara: Me, send it to me. I'm doing the minutes. [REDACTED]: Send to you, Sara. Ok, I've got your email address, so as soon as I've got off the phone and on the computer. I'll email it to you. Okay, [REDACTED] saves the day. Okay, no worries. All, good.

2.3.6 This example is worth considering because it demonstrates how quickly an allegation can take on a life of its own. Clearly in this case the norm of not recording a meeting should have been pointed out by one of the Coordinating Committee or other member at the time or calmly rectified later. It appears [REDACTED] simply needed some gentle education about online protocols.

2.3.7 However [REDACTED] also has also attempted to repeatedly "friend" people on Facebook after being blocked and it was reported, in writing that he "stalked" a fellow APNSA member and Coordinating Committee member including attempting, by means of insistent persuasion, not force, to gain entry to her house late at night. This involved driving up to [REDACTED] Even if the motivation stemmed from compulsive tendencies rather than a desire to coerce, and we do not know the answer to this, it is vital that all men and all APNSA members understand how threatening this behaviour can be to women who frequently deal with assaults and coercion.

2.3.8 This behaviour cannot be condoned. However even here there is some complexity, at least with the social media breaches. [REDACTED] has also made at least three attempts to "friend" David Winderlich on Facebook. And in communication with David Winderlich he has alternated between threatening to take APNSA to court and promising a substantial donation if he is re-admitted to membership. When all his behaviours are considered together the strongest sense is of generally compulsive rather than gendered behaviour although the impact of such behaviour may fall more strongly on women.

2.3.9 At the time of writing the Judiciary Committee believed the appropriate step is to extend his suspension for one more month from 17/02/2023 to assess whether he understands the impact of his actions, is sorry for them and is to work on his interpersonal interactions, particularly with women. We also observed that it would be useful if APNSA had a Code of Conduct that he could sign.

2.3.10 However at a meeting of the Coordinating Committee on 17/02/2023 Committee members informed David Winderlich of both historical harassment [REDACTED] and

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ongoing harassment of a current member including phone calls at 5am in the two days preceding that Coordinating Committee meeting.

2.3.11 The majority view of that meeting, was that although the motives of [REDACTED] were not gendered the impact of his behaviour, because he was more likely to focus on women was gendered.

2.3.12 A majority of the committee felt that whatever the reasons for [REDACTED]'s behaviour his presence in the APNSA was simply too disruptive. The Coordinating Committee resolved that he not be readmitted to the APNSA because the organisation could not provide either he or the members he would inevitably focus on with the necessary support to manage these problems. The committee reluctantly accepts that the APNSA lacks the capacity to support this member and therefore readmission while making all concerned feel virtuous would simply create problems in the future.

2.3.13 The valuable insights of the Coordinating Committee demonstrate that they should have been interviewed by the Judiciary Committee at the beginning of the process.

2.4 RECOMMENDATIONS FOR PART A.

1. That the suspension of [REDACTED] be lifted and he be invited to fully participate in the APNSA.
2. At the time of writing the Judiciary Committee believed the appropriate step is to extend his suspension for one more month to assess whether he understands the impact of his actions, is sorry for them and is to work on his interpersonal interactions, particularly with women.

Following a verbal report by David Winderlich on February 17 2023 the Coordinating Committee agreed to recommendation 1 but rejected recommendation 2 and resolved to expel [REDACTED] from the APNSA.

3.0 PART B. SYSTEMIC ISSUES WITH THE MANAGEMENT OF MEMBERS

- 3.1 The systemic problems with APNSA were clearly articulated in an emergency meeting via Messenger in August 2022. The meeting was called by several members and attended by Coordinating Committee members and looking back it was a well-intentioned last-ditch attempt to head off a crisis caused by simmering frustrations over behaviour and other issues.
- 3.2 The issues and a suggested response by the Judiciary Committee are provided below. These suggestions go beyond the role of the Judiciary Committee however we are aware that given the pressures of time the Coordinating Committee is unlikely to revisit these issues and therefore they will reoccur in the future.
- 3.3 The commentary by the judiciary Committee is in the form of suggestions and they are designed to be simple and practical rather than comprehensive responses.

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TABLE 1. ISSUES RAISED AT ONLINE MEETING OF AUGUST 28 2022

	Issues	Comment/Response
1.	Women have lesser of a voice or not seen as competent.	The gender balance of the Coordinating Committee reinforces this perception. The committee should schedule a discussion about how to improve the participation of women. The women who have left the organisation should all receive letters and be invited to re-join, pass on their suggestions or participate in discussions.
2.	Team work where all committee members stand united and not work against each other.	This should be discussed to see if it is a shared perception.
3.	Common manners and courtesy aren't displayed towards all members who are in attendance via zoom.	A clear protocol for Zoom meetings should be followed including checking if people online can hear and whether they have had the opportunity to speak. Consideration should be given to formally appointing a zoom facilitator at the beginning of each meeting.
4.	Too many committee members have micro-management issues and need to stick to their own roles and not everyone else's	This should be discussed to see if it is a shared perception. But some steps that would assist are: <ul style="list-style-type: none"> • Actions should be spelt out in minutes • A link to minutes should be emailed • The facilitator of each meeting should check if everyone has understood their roles at the conclusion of each meeting • Members should be invited to raise any concerns at the start of each meeting.
5.	Members feeling like they are being undermined/ gate kept within their work/roles	As above
6.	Training and educational workshops via zoom and in person should have everybody playing a role on the day not just a select few.	As per 3.
7.	Lack of capacity due to personal reasons/ change of circumstances.	This requires further discussion by CC.
8.	Members not feeling supported within APNSA (lack of peer support)	Social events that build relationships and more skilful facilitation to ensure people feel heard will help reduce this concern.
9.	Members feeling like they are not being heard/acknowledged	As above
10.	A negative culture within APN due to a lack of a sense of community/camaraderie	As above

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3.4 As previously discussed the Judiciary Committee investigation has taken far too long. The Judiciary Committee believes that as far as possible the Coordinating Committee should resolve membership issues. A Complaints Officer mechanism was considered but the Committee felt that it would be difficult to find volunteers for additional work of this nature. 2.5

3.5 The Coordinating Committee meeting of February 17 2023 followed a process to investigate complaints that could be a model for how to approach matters in future. This is outlined below.

3.6 The Judiciary Committee proposes the following Complaints Resolution process.

1. That as per 15.17 of the Rules of the APNSA any disputants should first seek to resolve the dispute themselves.
2. If they cannot then as per 15.18 the Coordinating Committee of the APNSA should consider the dispute
3. That the following process be followed
 - All complaints must be in writing or presented in person to the Coordinating Committee.
 - The subject of the complaint is required to respond in writing or in person to the Coordinating Committee
 - If the complaint is against a person who is a member of the Coordinating Committee that person be asked to leave the meeting while the matter is discussed
 - That any complainants or witnesses attending also be asked to leave the meeting during deliberations
4. That if this approach fails or in exceptional circumstances, such as a conflict interest, a Judiciary Committee can appoint an independent person to consider the matter as outlined in 15.19.

3.7. The Rules of the Association outline a Disciplinary Procedure in clauses 15.20-15.25. This should be the basis of future disciplinary action.

3.8 The Judiciary Committee proposes the following additional measures:

3.9 APNSA members even some committee members are not aware of the rules of the organisation. All key documents such as the Safe Spaces Policy, the Rules of the Association and Social Media policies should be made available on the APNSA Website. Each meeting of the APNSA should briefly refer to those documents and inform people where they can find them.

3.10 The Rules of the Association are recognised by the Australian National Charities Commission. The APNSA also has a constitution but it is not registered with the ACNC or the Business and Consumer Affairs Commission. The “rules” are also written in simple language.

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3.11 Therefore the Judiciary Committee recommends that the Rules of the APNSA be used as the basis for the Governance of the APNSA and that those rules be referred to at the beginning of all meetings. Those rules should also be made available on the APNSA website.

3.12 A dedicated and secure file of all members complaints should be established by the Secretary of the APNSA.

3.13 Several Members of the APNSA and the APNSA Coordinating Committee have resorted to public resignations on Facebook without making any attempt to discuss their concerns. Although in some cases they have had valid concerns, because they have not attempted to resolve their concerns within APNSA they have unfairly damaged APNSA. This suggests that all APNSA members should sign a Code of Conduct that outlines both their rights and their responsibilities.

3.14 That in the interests of transparency a version of this report, with identifying information deleted, be added to the website of the APNSA. The APNSA has developed a poor image for its management of gender issues. This may not always be fair, but it is a fact and it holds us back. It should write to all women who have resigned citing dissatisfaction with APNSA on gender grounds, apologise for any failure to effectively include them, ask them for their suggestions as to how to improve APN, and inform them that they would be welcomed if they chose to re-join APNSA.

3.15 That the issues raised by [REDACTED] in 2.4.3 concerning neuro-diversity be discussed by the Coordinating Committee to ensure APNSA is inclusive of diversities.

3.16 To ensure this report is implemented it should be scheduled on the agenda of each Coordinating Committee meeting for discussion and one member of the Committee be made responsible for ensuring this discussion occurs.

3.17 There is a lack of confidence in the ability of the Coordinating Committee to maintain confidentiality. Judiciary Committee members expressed this concern and debated whether it might be necessary to sign statutory declarations ourselves stating we would maintain privacy to ensure that members felt comfortable confiding in us. This should be addressed through the Code of Conduct in 3.13 and recommendation 7.

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4.0 RECOMMENDATIONS

That the APNSA

1. Notes the points raised in the meeting of August 28 2022 and schedules a discussion of the issues highlighted at a Coordinating Committee meeting in the near future.
2. Adopts the Complaints Resolution Process as recommended in 3.6.
3. Affirms that the Rules of the Association as the basis of its governance on an interim basis. Amend
4. Refers to key rules and policies in meetings and ensures they are available on the APNSA website.
5. Establishes a secure and Confidential Complaints File.
6. Publishes a deidentified version of the Judiciary Committee report on the website.
7. That a Code of Conduct be developed for all members to be signed on application for membership and that this Code of Conduct include an emphasis on Respect and Confidentiality.
8. Write to all former women members of the APNSA as outlined in 3.14
9. Schedules discussion of the issues identified in Table 1 and this report as per 3.16

Three documents are attached; a Chronology of Events and Evidence, (Attachment 1) and Terms of Reference (Attachment 2).

COMMITTEE MEMBERS

David Winderlich

Margie MacDonald

Beanz until November 28/2022

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ATTACHMENT 1 A CHRONOLOGY OF EVENTS AND EVIDENCE

Date	Event	Outcome/Issues
July	APNSA AGM	Recording of Zoom meeting by DE
24/7/2022	██████ Heard to █████ threatening to call the police if he arrives at her house	
28/8/2022	Emergency FB meeting convened by █████ and █████	
5/9/2022	DE Membership Suspended Announcement on FB Naming █████ Intent to establish Judiciary Committee Announced	Letter to DE
29/9/2022	██████ Announces resignation on Facebook and via text citing AP use of APNSA as a "dating pool".	
14/10/22	Report of Judiciary Committee to Coordinating Committee	
11/11/2022	Emails from █████ expressing regret and indicating his likely resignation	
15/11/22	Letter to Complainants from Judiciary Committee (JC) inviting input	No response
15/11/22	Letter to Defendants inviting input and explaining that their suspension has been extended to 12 Feb	Email/social media contact from DE In person meeting with AP
	Facebook announcement of suspension of another unidentified member.	
28/11/22	Second Report of JC to APNSA CC	
19/12/22	Meeting between DW and █████	
17/2/23	Coordinating Committee meeting decides to reinstate AP and continue to deny membership to DE.	
06/3/23	████ and █████ informed of decision	

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ATTACHMENT 2 TERMS OF REFERENCE OF THE JUDICIARY COMMITTEE AS ESTABLISHED BY THE COORDINATING COMMITTEE ON SEPTEMBER 8 2022

1. To review and document all known complaints about [REDACTED].
2. To invite [REDACTED] to respond to those complaints.
3. To make recommendations to the Coordinating Committee about the future membership of [REDACTED].
4. To make recommendations about any changes needed to policies, procedures and organisational rules identified during this investigation, including the need for and practicality of police checks.

A. MOTION ESTABLISHING THE JUDICIARY COMMITTEE

- B. That the Coordinating Committee resolves that due to numerous reports of harassment of other members and other breaches of privacy and confidentiality and his lack of response to communication about these concerns, the membership of Dave Erdely be immediately suspended and his access to all social media accounts be terminated

That due to potential risks to the safety of other members this decision will be communicated to all members including the identification of Dave Erdely

That to afford Dave Erdely natural justice in his potential expulsion from APNSA a Judiciary Committee, as per section 8 of the Constitution, of at least three people will be established to investigate allegations against Dave Erdely, provide him with an opportunity to respond to those allegations

The Judiciary Committee will provide a report to the October meeting of the Coordinating Committee on the matter of Dave Erdely and other related matters as they see fit.

The members of the Coordinating Committee will be David Winderlich, Margie MacDonald and at least one and not more than two other members.

That David Winderlich approach Sam Shetler, Tammy Hendon and Claudia Ienco to serve on the Judiciary Committee.

NOTE: Beanz was later suggested as a member.