

# Harassment and Bullying Prevention Guidelines

## Section 1 - Purpose

### Introduction

(1) The University has a duty of care in relation to the health and safety of its staff and students. Harassment that occurs within Charles Sturt University or is related to university activities is of concern as it can create an intimidating, hostile, offensive or distressing work or study environment and impact on the health and well being of staff and students. Harassment may adversely affect the work or academic performance of staff and students and their ability to access opportunities and benefits relating to employment or education. It can also damage the integrity and standing of the University. In addition, some forms of harassment are unlawful.

### Purpose

(2) These Guidelines are intended to assist with identifying the kinds of behaviour that may be defined as harassment or bullying and to outline options for resolving incidents of harassment or bullying.

### Scope

(3) These Guidelines cover staff and students of Charles Sturt University, visitors to the University and contractors working on campus. They also apply to events that occur off campus that are associated with University related activities.

## Section 2 - Glossary

(4) For the purpose of these Guidelines:

- a. Bullying- can be described as unreasonable behaviour that intimidates, demeans or humiliates a person, putting their health, safety or welfare (including psychological welfare) at risk.
- b. Duty to foster the wellbeing of staff and students – means the University’s duty as defined in the policy library glossary.
- c. Harassment - refers to unwelcome behaviour that:
  - i. makes a person feel offended belittled, intimidated, or apprehensive; and that
  - ii. a reasonable person, taking into account all the circumstances, would expect to cause offence, intimidation or apprehension.
- d. Vilification - refers to a public act that could incite or encourage hatred, severe ridicule or serious contempt for a person or group of people because of characteristics such as their race, homosexuality, HIV/AIDS status or transgender status.

(5) Under State and Commonwealth anti-discrimination legislation, harassment on any of the following grounds is deemed to constitute discrimination:

- a. sex;

- b. sexual orientation, gender identity, or intersex status;
- c. marital, relationship or domestic status;
- d. pregnancy or potential pregnancy;
- e. breastfeeding;
- f. family or carer responsibilities
- g. race, colour, nationality, descent, national or ethno religious origin;
- h. disability (including physical, sensory, intellectual, psychiatric, neurological and learning disability, physical disfigurement, the presence in the body of an organism capable of causing disease, and current, past, future or imputed disability)
- i. age;
- j. religious or political affiliation, views or beliefs
- k. actual or imputed characteristics of any of the attributes listed above; or
- l. association with a person identified by reference to any of the attributes listed above.

In addition, sexual harassment is specifically proscribed.

## Section 3 - Policy

(6) Refer to the [Bullying, Discrimination and Harassment Prevention Policy](#).

## Section 4 - Procedure

(7) Nil.

## Section 5 - Guideline

### Part A - The general nature of harassment

(8) In the context of the University, harassment is behaviour that is unnecessary to the performance of professional duties and that interferes with a person's right to work or study in a non-threatening environment.

(9) Harassment may take verbal, written, physical or other non-verbal forms. It can encompass behaviour that is offensive or harmful, from demeaning personal comments to bullying which, if not managed, can lead to acts of aggression or physical violence.

(10) Harassment is usually a pattern of behaviour. However, one incident may be enough to support a finding of harassment if it is sufficiently offensive or serious in its ramifications.

### Part B - Sexual harassment

(11) Sexual harassment refers to unsolicited, unwanted attention of a sexual nature that is demeaning, compromising, embarrassing or distressful to the recipient.

(12) The law defines sexual harassment as occurring when a person makes an unwelcome sexual advance, an unwelcome request for sexual favours, or engages in other unwelcome conduct of a sexual nature that causes the recipient to feel offended, humiliated, or intimidated, and when this reaction is reasonable, given the circumstances.

(13) In determining whether harassment has occurred, the intention of the person whose behaviour has caused

offence is of less significance than the effect of their behaviour on the other person. The same behaviour may be perceived differently, depending on a person's age, gender or their social or cultural background. In addition, forms of sexual behaviour that may initially appear mild or trivial can cause severe distress in situations where there is a formal inequality of status between those involved.

(14) Sexual harassment can occur as a single incident or a persistent pattern of unwelcome behaviour. It may be intentional or unintentional and is not confined by definition to any gender or sexuality. It can range from subtle behaviour to explicit demands for sexual activity or even criminal assault.

(15) Sexual harassment may include but is not limited to:

- a. inappropriate remarks with sexual connotations, smutty jokes, or lewd comments;
- b. intrusive questions or insinuations about a person's sexual activities or private life;
- c. suggestive remarks about a person's body or appearance;
- d. persistent, unwanted requests for dates;
- e. persistent, unwanted declarations of affection;
- f. subtle or explicit requests for, or offers of, sexual favours;
- g. the display of sexually suggestive material in inappropriate contexts;
- h. offensive written, telephone, or electronic mail or other computer system communications;
- i. offensive hand or body gestures;
- j. uninvited physical contact such as patting, pinching, touching or putting an arm round another person;
- k. unnecessary close physical proximity, including persistently following a person;
- l. indecent exposure; or
- m. sexual assault.

(16) Sexual harassment is of particular concern where it:

- a. implicitly or explicitly imposes a condition on student admission, grading or academic progress;
- b. implicitly or explicitly imposes a condition on staff recruitment, selection, appraisal or career progression;
- c. interferes with academic or work performance; or
- d. creates an intimidating or offensive learning or work environment.

(17) Sexual harassment does not refer to relationships of mutual attraction that are based on genuine choice and consent. However, in situations of unequal power and authority, there is a danger that 'consent' might be based on fear, intimidation or perceived coercion because of the unequal status of the parties involved. For example, where a sexual advance appears to be reciprocated, it could still be viewed as harassment if the recipient had reasonable grounds for believing that a rejection of, or objection to, the sexual behaviour would disadvantage her/him in some way.

(18) The [Code of Conduct](#) for staff requires staff members to disclose to their immediate supervisor or other senior officer within their Faculty or Division details of personal relationships that may give rise to an actual, potential or perceived conflict of interest in the performance of their duties. Where an employee is involved in a close, personal, romantic or sexual relationship with a student in relation to whom the employee has academic or administrative responsibilities, the employee is required to make alternative arrangements, in this instance, for carrying out such responsibilities. This requirement is for the benefit of all parties concerned to differentiate clearly between personal and professional relationships.

(19) It is helpful to distinguish between sexual harassment and gender-based harassment. The latter encompasses harassment or offensive conduct based on the gender of the recipient - that is, treatment that is sexist or in any other

way denigrates or disadvantages a person because of their gender.

## Part C - Racial harassment

(20) Racial harassment is characterised by the use of derogatory or offensive language and/or behaviour, with reference to the racial, ethnic, cultural or ethno-religious background of people or groups.

(21) Racial harassment may include:

- a. the display of racist cartoons, posters and graffiti, or distribution of offensive racially-oriented material;
- b. repeated jokes or derogatory comments that make reference to ethnicity or racial characteristics;
- c. derogatory remarks about a person's accent, culture, customs or religious observances;
- d. racially oriented abuse or name calling;
- e. negative stereotyping of particular ethnic groups;
- f. repeated irrelevant reference to a person's racial, cultural or ethnic background;
- g. practical jokes based on race or directed only at members of a non-majority ethnic group; or
- h. bullying, intimidation, exclusion or physical violence, on the basis of the cultural or ethnic background of the recipient.

## Part D - Other forms of harassment

(22) The [Disability Discrimination Act 1992](#) explicitly covers harassment as unlawful, on the basis of a disability, presumed disability or association with a person with a disability. This includes harassment of a person because they have, or are assumed to have, an illness or disease such as HIV/AIDS or viral hepatitis.

(23) Harassment because of a person's age, marital, relationship or domestic status, sexual orientation, gender identity or intersex status is also contrary to the law in contexts where it causes disadvantage, interferes with work or academic performance, or creates an intimidating or hostile work or study environment. In such cases, any one of the following actions may constitute harassment:

- a. denigrating language or comments regarding a person's gender identity, intersex status, sexual orientation, age or any other personal characteristic;
- b. the display of written or pictorial material that denigrates or ridicules a person's gender identity, intersex status, sexual orientation, age or any other personal characteristic; or
- c. abusive behaviour such as bullying or intimidation because of a person's gender identity, intersex status, sexual orientation, age or any other personal characteristic.

## Part E - Vilification

(24) State and Commonwealth anti-discrimination legislation prohibit certain forms of vilification.

(25) Where the content ridicules or incites hatred or contempt for a person's race, sexual orientation, gender identity, intersex status or HIV/AIDS status, the following activities may be defined as vilification:

- a. graffiti;
- b. posters or stickers displayed in a public space;
- c. statements or speeches made in public or published on the Internet;
- d. statements or remarks in a newspaper, journal or other publication, or on radio, television or other widely accessed electronic media such as social media or email;
- e. abuse that happens in public; or

- f. displaying slogans on badges or clothing in public.

## Part F - Bullying

(26) Bullying is another form of harassment. Bullying is generally characterised by a misuse of relative and/or assumed power. It is often, but not always, deliberate and it usually encompasses more than one act.

(27) Bullying can be identified by repeated, persistent, aggressive behaviours that may escalate in severity over time, or a pattern of behaviour that causes disadvantage and/or distress.

(28) Bullying behaviours may include but are not limited to:

- a. abusive or offensive language, insults, ridicule, sarcasm or intimidating remarks;
- b. verbal or physical aggression — for example, shouting, throwing things, pushing or standing over someone;
- c. spreading derogatory innuendo or rumours about a person;
- d. teasing or regularly making a person the brunt of practical jokes/pranks, particularly after they have objected;
- e. making phone calls or sending letters or e-mails that are threatening, abusive or offensive;
- f. interfering with or damaging a person's property;
- g. repeatedly criticising or making comments intended to discredit or undermine a person or devalue their work;
- h. minimising or failing to acknowledge a person's contribution;
- i. deliberately excluding someone from work-related or study-related interactions, social activities or networks;
- j. deliberately withholding work-related/study-related information or resources or supplying incorrect information to an individual;
- k. inappropriately threatening a student with low grades or a staff member with dismissal, disciplinary action or demotion;
- l. creating unexplained job changes, setting meaningless tasks or tasks well beyond a person's job description;
- m. setting unreasonable deadlines, impossible work targets or excessive workloads;
- n. subjecting a person to constant surveillance or over-detailed supervision and unwarranted checking of performance;
- o. denying access to training and development or career opportunities without justification; or
- p. applying restrictive and petty work rules that diminish a person's control over the way in which their work is carried out.

(29) Bullying should not be confused with the legitimate exercise of managerial, supervisory or teaching authority. It is not bullying or harassment for:

- a. a supervisor, within the framework of the University policies and procedures, to counsel an employee on their performance or institute proceedings for unsatisfactory performance, misconduct or dismissal or deal with complaints from others;
- b. an academic staff member, as part of their teaching role, to counsel a student on academic matters or give constructive feedback on their academic progress or classroom-related behaviour; or
- c. staff or students to express differences of opinion or difficulties they have with another member of the campus community, provided that it is done in an appropriate manner.

(30) University and campus life will sometimes expose staff, students and visitors to ideas or opinions that individuals may find offensive or confronting. As stated in the [Student Charter](#) and the [Code of Conduct](#), all staff and students enjoy freedom of speech and academic freedom exercised on University premises or in connection with the University. These rights are subject only to restraints or burdens described in those policies including, among others, restraints or burdens imposed by law or the reasonable and proportionate regulation of conduct to enable the

University to fulfil its duty to foster the wellbeing of students and staff. Subject to those restraints and burdens, the following do not in themselves constitute bullying or harassment:

- a. low-level conflict which is not sufficient to constitute bullying. This may arise as a consequence of differences of opinion, conflicts or low-level interpersonal conflicts or disagreements or problems in work/study relationships (provided that low-level conflicts should not be ignored and should be resolved, if possible, in an informal manner); and
- b. reasonable management practices including those described in clause (29).

(31) For the avoidance of doubt any difference of opinion, conflict, disagreement or problem in work/study relationships which gives rise to a risk to health and safety and/or which prejudices the ability of the University to foster the wellbeing of students and staff will not be considered a low-level conflict and may constitute bullying or harassment.

## **Part G - Options available to staff and students for resolving complaints of harassment or bullying**

(32) Staff or students who believe they are being harassed or bullied should not ignore the problem. In the first instance, if they feel safe to do so, it may be sufficient to make it clear to the other person that their behaviour is unwelcome, offensive or distressing. If the employee or student does not feel comfortable with this approach or if it is not effective, they should seek advice or use the [Complaints Procedure - Workplace](#) (in the case of staff) or the [Complaints Management Procedure](#) (in the case of students). Visitors should use the [Complaints Management Procedure](#).

(33) Options available to staff, students or visitors for resolving complaints of harassment include:

- a. advising the appropriate line manager or, in the case of students, the Head of School;
- b. taking the matter up with other appropriate contacts within the University, e.g. the Equity and Diversity team, Division of People and Culture Business Partners or senior staff members;
- c. contacting Student Services Office or an employee representative of their choice for advice, support or assistance (if a member of the University community);
- d. submitting a written complaint to the University Ombudsman;
- e. seeking advice from the [Anti-Discrimination Board of NSW](#) or [Australian Human Rights Commission](#); or
- f. in the case of assault or injury, contacting the police.

(34) Any difficulty in defining what constitutes harassment or bullying should not deter a person from seeking assistance to address behaviour that causes them distress, nor should they be deterred by embarrassment, intimidation or fear of publicity. The sensitivity of harassment complaints and the need for confidentiality will be respected.

(35) Harassment and bullying can result in trauma and stress for the person who is the target of such behaviour. Counselling services are available through the Employee Assistance Program for staff or through the Office of Student Safety and Wellbeing for students.

## Status and Details

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## Glossary Terms and Definitions

**"Duty to foster the wellbeing of staff and students"** - includes the duty to ensure that no member of staff and no student suffers unfair disadvantage or unfair adverse discrimination on any basis recognised at law including race, gender, sexuality, religion and political belief; includes the duty to ensure that no member of staff and no student is subject to threatening or intimidating behaviour by another person or persons on account of anything they have said or proposed to say in exercising their freedom of speech; supports reasonable and proportionate measures to prevent any person from using lawful speech which a reasonable person would regard, in the circumstances, as likely to humiliate or intimidate other persons and which is intended to have either or both of those effects; does not extend to a duty to protect any person from feeling offended or shocked or insulted by the lawful speech of another.