

# Bullying, Discrimination and Harassment Prevention Procedure

## Section 1 - Purpose

(1) This procedure supports the [Bullying, Discrimination and Harassment Prevention Policy](#) and is intended to assist with identifying these behaviours and outline options for reporting and resolving incidents.

### Scope

(2) This procedure has the same scope as the [Bullying, Discrimination and Harassment Prevention Policy](#).

## Section 2 - Policy

(3) This procedure supports the [Bullying, Discrimination and Harassment Prevention Policy](#).

## Section 3 - Procedure

### Part A - Reporting and resolving complaints

#### Reporting

(4) Staff, students or visitors who believe they are being bullied, discriminated against, harassed, victimised or vilified, or who witness bullying, discrimination, harassment, victimisation or vilification should not ignore the problem.

(5) 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 staff, student or visitor does not feel comfortable with this approach or if it is not effective, they should follow one or more of the following options:

- a. Advise the appropriate line manager or, in the case of students, their lecturer or Head of School (or equivalent).
- b. Students may seek emotional and practical support from the Charles Sturt Student Counselling team, who can also provide information about pathways and choices available for reporting within the university or externally.
- c. Contact another appropriate staff member or organisational unit within the University, for example, the Division of People and Culture or the Division of Safety, Security and Wellbeing.
- d. Submit a complaint under the [Complaints Management Policy](#).
- e. In the case of assault or injury, contact Campus Security and/or the police.

(6) If staff or students experience bullying, discrimination, harassment, victimisation or vilification while on work or study placements with other organisations, they are encouraged to inform the University to determine an appropriate approach to the issue.

(7) The [Complaints Management Policy](#) sets out what a person should do if they are victimised or subject to detrimental action in reprisal for reporting or making a complaint.

(8) Any difficulty in defining what constitutes bullying, discrimination, harassment, victimisation or vilification 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 these concerns and the need for confidentiality will be respected.

## **Investigating and resolving**

(9) The University's emphasis is generally on informal resolution of complaints. This approach is not intended to minimise the seriousness of the matter but can allow for a more immediate response that is appropriate to the matter and the individuals involved. The [Complaints Procedure - Workplace](#) describes an informal complaints process that may be utilised by managers, supervisors or other individuals who receive a complaint from a staff member, student or visitor.

(10) More formal action and investigation under the University's [Complaints Management Policy](#) may be appropriate in instances where, for example:

- a. there are repeated offences
- b. the alleged behaviour constitutes serious misconduct
- c. the complainant has been victimised following a complaint being made
- d. a complaint has been made in bad faith
- e. the alleged behaviour poses a serious or immediate risk to the University's operations and/or reputation.

(11) Any form of bullying, discrimination, harassment, victimisation or vilification may be determined to constitute misconduct or serious misconduct and lead to disciplinary action and penalties under the [Enterprise Agreement](#), employment contracts or [Student Misconduct Rule 2020](#).

(12) The University may also report matters to the police where violence or damage to property is involved. This includes threats of violence or threats of destruction of property. For example physical assault or the threat of physical assault.

(13) Staff, students and visitors who make a complaint should be aware that if:

- a. a complaint is vexatious or frivolous
- b. they lie about or exaggerate a complaint
- c. they do not provide all the facts relevant to the complaint at the outset
- d. they do not cooperate with the processes the University adopts to address the complaint

the University may view this as a misuse of the complaints management process and address this in accordance with the [Complaints Management Policy](#).

## **Support**

(14) Bullying, discrimination, harassment, victimisation and vilification 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 Division of Safety, Security and Wellbeing for students, or external organisations such as Lifeline and Beyond Blue.

(15) The Student Counselling team operates as the University's central point of inquiry and reporting of inappropriate, concerning, and threatening behaviour, and offers a respectful and confidential place to seek support and advice for students. This service is available to students who have experienced sexual assault, sexual harassment and violence whether this happened within the university setting or external to it. Anonymous reporting is an option for students who wish to only share their story but withhold their details.

## Part B - Examples of bullying, discrimination, harassment and vilification

(16) This part provides further details and examples of behaviour that may constitute bullying, discrimination, harassment and vilification. It is intended to support the identification of these behaviours for the purpose of prevention and/or reporting and managing incidents.

### Bullying

(17) 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.

(18) 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.

(19) 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 jokes, practical jokes and/or 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.

### Reasonable management practices

(20) Bullying should not be confused with reasonable management practices and 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

- 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, or
- d. a supervisor or manager to allocate or assign work to an employee consistent with their position at the University.

## **Discrimination**

(21) Discrimination can be against the law if it is based on a person's:

- a. age
- b. disability
- c. race, including colour, national or ethnic origin or immigrant status
- d. sex, pregnancy, marital or relationship status, family responsibilities or breastfeeding
- e. sexual orientation, gender identity or intersex status.

(22) Discrimination may be:

- a. direct, such as when a person or group is treated less favourably than another person or group in a similar situation because of a personal characteristic listed at clause 21. For example:
  - i. a student, staff member or visitor is harassed and humiliated because of their race
  - ii. an employee is refused promotion because they are 'too old'
  - iii. refusing to hire an intersex employee as it may mean they need time off for medical reasons
- b. indirect, such as when an unreasonable requirement, condition or practice is imposed that has, or is likely to have, the effect of disadvantaging people with a personal characteristic listed at clause 21. For example, requiring all staff to have a drivers licence, regardless of individual position requirements, may disadvantage people with a disability who are unable to get a drivers licence but would be otherwise suitable for the role.

## **Harassment**

(23) 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.

(24) 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. The Australian Human Rights Commission advises that harassment can include behaviour such as:

- a. telling insulting jokes about particular racial groups
- b. sending explicit or sexually suggestive emails or text messages
- c. displaying racially offensive or pornographic posters or screen savers
- d. making derogatory comments or taunts about a person's disability
- e. asking intrusive questions about someone's personal life, including their sex life.

(25) 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.

(26) Under various state and Commonwealth anti-discrimination legislation, harassment can be deemed to constitute discrimination.

## Sexual harassment

(27) Sexual harassment refers to any unsolicited, unwelcomed or unwanted behaviour of a sexual nature that makes a person feel humiliated, compromised, embarrassed or distressed.

(28) 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.

(29) In determining whether sexual 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.

(30) 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.

(31) A person can be sexually harassed even if they are not the intended target or recipient of the unwelcome or inappropriate behaviour of a sexual nature.

(32) 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 or a relationship of a more personal nature
- 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 hand or body gestures
- i. uninvited physical contact such as patting, pinching, touching or putting an arm round another person
- j. unnecessary close physical proximity, including persistently following a person
- k. indecent exposure
- l. sexual assault.

(33) 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
- d. creates an intimidating or offensive learning or work environment.

(34) 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 them in some way.

(35) The [Code of Conduct](#) and [Conflict of Interest Procedure](#) requires staff members to disclose details of personal relationships that may give rise to an actual, potential or perceived conflict of interest in the performance of their duties.

(36) 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.

### **Racial or religious harassment**

(37) Racial or religious harassment is harassment (as defined by the [Bullying, Discrimination and Harassment Prevention Policy](#)) with reference to the racial, ethnic, cultural or ethno-religious background of people or groups.

(38) Racial harassment may include, but is not limited to:

- a. the display of racist cartoons, posters and graffiti, use of hate symbols, 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. denial of historic harms or abuses
- e. racially oriented abuse or name-calling
- f. negative stereotyping of particular ethnic groups
- g. accusing an individual or group of being responsible for a real or imagined wrongdoing based on their racial, cultural or ethnic background,
- h. repeated irrelevant reference to a person's racial, cultural or ethnic background,
- i. practical jokes based on race or directed only at members of a non-majority ethnic group, or
- j. bullying, intimidation, exclusion or physical violence, on the basis of the cultural or ethnic background of the recipient.

### **Sexual orientation, gender identity and intersex status harassment**

(39) Harassment of a person in relation to their sex characteristics, sexual orientation, and/or gender identity (including lesbian, gay, bisexual, transgender, intersex, queer/questioning and asexual (LGBTIQ+)) may include, but is not limited to:

- a. distributing an email that has jokes about 'poofers' and 'dykes'
- b. telling a bisexual person they are just on their way to being gay
- c. telling a trans employee that she should not be in the female bathroom because she is not a 'real' woman
- d. asking a trans man what surgeries he has had
- e. telling an intersex employee that it really means they are trans.

### **Other forms of harassment**

(40) 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 infectious disease (such as HIV/AIDS or viral hepatitis).

(41) Harassment because of a person's age, marital, relationship or domestic 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 about a person based on a personal characteristic
- b. the display of written or pictorial material that denigrates or ridicules a person based on a personal characteristic
- c. abusive behaviour such as bullying or intimidation based on personal characteristics.

## **Vilification**

(42) Vilification is a public act that could incite hatred, serious contempt or severe ridicule towards a person or group. Vilification of certain characteristics is against the law, including vilification based on a person's race, sexual orientation, gender identity, intersex status or infectious disease status, the following activities may be defined as vilification:

- a. graffiti
- b. posters, stickers, signs or flags 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
- f. displaying slogans or images on badges or clothing in public.

## **Section 4 - Guidelines**

(43) Nil.

## **Section 5 - Glossary**

(44) Nil.

## Status and Details

<b>Status</b>	Current
<b>Effective Date</b>	12th February 2024
<b>Review Date</b>	1st August 2025
<b>Approval Authority</b>	University Secretary
<b>Approval Date</b>	12th February 2024
<b>Expiry Date</b>	Not Applicable
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