

Prevention of Harassment, Bullying and Discrimination Policy

Section 1 - Overview

(1) The University values our staff and promotes a workplace culture that ensures the right of all people to be treated with dignity and respect by providing an environment free from harassment, bullying and intimidation.

(2) In accordance with these principles and legislative requirements, this policy:

- a. Informs all staff of their rights and obligations;
- b. Sets standards of behaviour in accordance with dignity and respect principles; and
- c. Addresses the consequences of breaches to this policy.

Section 2 - Scope

(3) This policy will apply to all UNE Representatives of the University (as defined under this policy).

Section 3 - Policy

Policy Principles

(4) UNE Representatives have the right to work in and be part of a fair, safe and productive environment.

(5) At all times while engaged in Official University business, University Representatives and members of the public are entitled to be treated with courtesy, fairness and equity.

(6) The University expects UNE Representatives to abide by the relevant State and Federal legislation, Codes of Conduct and other policies and to adhere to high standards of behaviour that reflect well on the University. The relevant State and Federal Legislation includes:

- a. [Age Discrimination Act 2004 \(Cth\)](#);
- b. [Anti-Discrimination Act 1977 \(NSW\)](#);
- c. [Disability Discrimination Act 1992 \(Cth\)](#);
- d. [Racial Discrimination Act 1975 \(Cth\)](#);
- e. [Sex Discrimination Act 1984 \(Cth\)](#);
- f. [Human Rights and Equal Opportunity Commission Act 1986 \(Cth\)](#);
- g. [Work Health and Safety Act 2011 \(NSW\)](#);
- h. [Work Health and Safety Regulation 2011 \(NSW\)](#); and
- i. [Fair Work Act 2009\(Cth\)](#).

Creating a Workplace that provides dignity and respect

(7) UNE Representatives are required to help contribute to a workplace that provides dignity and respect by:

- a. Understanding the principles of this policy and their obligations as a member of the University community;
- b. Supporting and promoting this policy;
- c. Speaking up, and making it clear when behaviour is unacceptable;
- d. Supporting those who are affected by breaches of this policy and encouraging them to take action;
- e. Promoting mutual respect and acceptance of diversity; and
- f. Cooperating in any investigation in the event of an allegation of unacceptable behaviour, as requested.

Roles & Responsibilities

(8) Senior Executives, Heads of Cost Centres and Managers must exercise due diligence to ensure the business complies with its obligations. A Senior Executive and Head of Cost Centre must keep up to date with work health and safety matters, take reasonable steps to ensure the University has appropriate resources and ensure the University has processes for complying with their obligations.

(9) UNE Representatives have a duty to take reasonable care for their own health and safety, ensure their conduct does not affect the health and safety of others, and comply with any reasonable instructions from the University.

Unacceptable Behaviours

(10) While the general principle of acting with courtesy, fairness and equity applies at all times, UNE Representatives are specifically prohibited from engaging in the following behaviours while engaged in Official University business:

- a. Harassment, bullying and vilification
- b. Discrimination; or
- c. Victimisation.

Bullying

What is workplace bullying?

(11) Bullying (workplace bullying) is repeated unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety. Examples of behaviour, whether intentional or unintentional, that may be considered to be workplace bullying if they are repeated, unreasonable and create a risk to health and safety may include:

- a. Abusive, insulting or offensive language or comments;
- b. Unjustified criticism or complaints;
- c. Continuously and deliberately excluding someone from workplace activities;
- d. Withholding information that is vital for effective work performance;
- e. Setting unreasonable timelines or constantly changing deadlines;
- f. Setting tasks that are unreasonably below or beyond a person's skill level;
- g. Denying access to information, supervision, consultation or resources such that it has a detriment to the worker;
- h. Spreading misinformation or malicious rumours;
- i. Changing work arrangements, such as rosters and leave, to deliberately inconvenience a particular staff member or members; or

j. Excessive scrutiny at work.

(12) All workplaces experience occasional differences of opinion, tension and conflict. It is a part of working life. However, if 'unreasonable behaviour' is repeated then it is likely to amount to workplace bullying that will not be tolerated by the University.

(13) Workplace bullying can occur wherever people work together in all types of workplaces. Bullying can be carried out in a variety of ways, including through email or text messaging, internet chat room, instant messaging or other social media channels.

What is not workplace bullying?

(14) A single incident of unreasonable behaviour is not considered to be workplace bullying. Nevertheless, this will not be ignored or allowed. The University will intervene to ensure that these incidents do not escalate.

(15) A reasonable and lawful direction of a supervisor will not constitute harassment/bullying for the purpose of this policy. There are times when a supervisor or manager may take reasonable management action to effectively direct and control the way work is carried out. It is reasonable for managers and supervisors to allocate work and to give fair and reasonable feedback on a staff member's performance. These actions are usually not considered to be bullying if they are carried out in a reasonable manner, taking the particular circumstances into account. Examples of reasonable management action may include:

- a. Setting reasonable performance goals, standards and deadlines;
- b. Rostering and allocating working hours where the requirements are reasonable;
- c. Transferring a staff member for operational reasons (within the provisions of the relevant Enterprise Agreement);
- d. Deciding not to promote a staff member where the University's policies and procedures are followed and documented;
- e. Informing a staff member about unsatisfactory work performance where undertaken within the provisions of the relevant Enterprise Agreement;
- f. Informing a worker about inappropriate behaviour in an objective and confidential way; and
- g. Implementing changes in the workplace, either structural or operational, where undertaken within the provisions of the staff member's contract of employment or relevant Workplace Agreement.

(16) Low level workplace conflict: not all interpersonal conflict or disagreements constitute bullying. UNE Representatives can and will disagree with each other.

- a. What differentiates low level conflict situations from bullying is whether there is a risk to health and safety and the reasonableness of the behaviour.
- b. Low-level conflict situations should not be ignored and should be resolved if possible through informal resolution in accordance with the relevant Enterprise Agreement.

Discrimination

(17) Discrimination generally occurs when someone is treated less favourably than others because they have a particular characteristic or belong to a particular group of people. For example, someone can be discriminated against if they are treated differently from others because of their age, gender or religious affiliation.

(18) Special measures taken for the sole purpose of securing adequate advancement of certain groups or individuals may not be discriminatory or unfair provided they are not unlawful.

Harassment

(19) Harassment generally involves unwelcome behaviour that intimidates, offends or humiliates a person because of a particular personal characteristic such as race, age, gender, disability or sexuality.

Vilification

(20) Vilification is any form of conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of another person/s on the grounds of their race or religion.

(21) Such conduct can be a single event or series of events over a period.

(22) Exceptions may apply when conduct can be established as reasonable and in good faith and represents genuine artistic, academic, religious or scientific endeavours.

Victimisation

(23) Victimisation is specifically prohibited under the Equal Opportunity Act 2010 and federal discrimination laws and means subjecting a person to some form of detriment because he or she has:

- a. lodged a complaint of discrimination or sexual harassment;
- b. provided information or documents regarding a complaint;
- c. reasonably asserted their rights, or supported someone else's rights, under anti-discrimination laws;
- d. refused to discriminate against another person, victimise or sexually harass them;
- e. made an allegation that a person has acted unlawfully under anti-discrimination laws; or
- f. brought any proceeding under the Act.

Retaliatory Action

(24) University will not tolerate victimisation of a complainant, respondent or person legitimately associated with the resolution of a grievance. Adverse action taken against a complainant may be unlawful under the Fair Work Act 2009 (Cth).

Confidentiality

(25) All information provided by parties will be handled confidentially. Confidentiality is essential when dealing with allegations of bullying, harassment and discrimination. Allegations of bullying, harassment and discrimination have the potential to cause damage to an individual's reputation, regardless of whether the allegation is later found to be substantiated. Only those with a legitimate need to know, such as supervisors, will be notified of any allegations of bullying, harassment or discrimination. Only people directly involved in the assessment or resolution of the complaint will have access to information about the complaint, subject to legal requirements for disclosure. Support is available under the policy for affected staff through the Employee Assistance Program.

Authorisation

(26) The Director Human Resource Services is authorised to administer this policy and to make procedures to apply under this policy. The procedures must be consistent with this policy.

(27) This is a Vice-Chancellor and Chief Executive Officer's policy and vested authority is granted for decisions made under this policy to the nominated parties. The Vice-Chancellor and Chief Executive Officer retains discretion over decisions made under this policy.

Compliance

(28) All UNE Representatives must comply with this Policy. A failure to comply with this Policy may amount to misconduct/serious misconduct and/or unsatisfactory performance.

Section 4 - Definitions

(29) Behaviour includes actions and comments towards an individual or a group and may involve using a system of work as a means to victimising, humiliating, undermining or threatening.

(30) Complainant means the staff member(s) who has/have lodged a grievance.

(31) Employee Assistance Program means the professional, independent and confidential counselling service. The EPA is intended to be short-term, solution-focused, providing practical strategies for dealing with issues in a supportive and non-judgemental environment.

(32) Enterprise Agreements means the UNE Academic and ELC Teaching Staff Collective Agreement 2014-2017 and the UNE Professional Staff Collective Agreement 2013-2017, each as extended or varied from time to time, and is taken to include any agreement that replaces or varies one or more of these documents.

(33) Head of Cost Centre normally means the Head of School or Director (as the case may be) of the relevant School or Directorate. Where it is not appropriate for the Head of School or Director to act, or where the circumstances relate to a position reporting directly to a Senior Executive, the Head of Cost Centre will be taken to mean the relevant Senior Executive. Where the matter relates to a Senior Executive, the Head of Cost Centre will be the Vice- Chancellor.

(34) Official University Business means activities directly associated with the functions of the University including but not limited to teaching & learning, research, conference, consultancy, administrative and other official duties undertaken on behalf of the University.

(35) Principles of Natural Justice means procedural fairness of the processes by which an outcome is reached and not the outcome itself and requires that a respondent to a complaint must be provided with:

- a. the relevant details of the complaint to enable the respondent to formulate a response in the case of an investigation;
- b. information about processes by which the matter is to be resolved; and
- c. an opportunity to put their case and respond to the complaint during the investigation.

(36) Repeated refers to the persistent nature of the behaviour and can refer to a range of behaviours over time. Behaviour is considered 'repeated' if an established pattern can be identified. It may involve a series of diverse incidents, e.g. verbal abuse and deliberate damage to personal property.

(37) Respondent means one or more persons who are the subject of a staff member's grievance.

(38) Risk to health and safety includes risk to the mental or physical health of the worker.

(39) Supervisor means the role to whom a position reports to.

(40) University community includes all UNE Representatives, volunteers and visitors who are involved in a University-related activity.

(41) UNE Representative means a University employee (casual, fixed term and permanent), contractor, agent, appointee, UNE Council member and any other person engaged by the University to undertake some activity for or on behalf of the University. It includes corporations and other bodies falling into one or more of these categories.

(42) Unreasonable behaviour means behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten a worker or group of workers.

Status and Details

Status	Historic
Effective Date	13th November 2015
Review Date	8th August 2017
Approval Authority	Vice-Chancellor and Chief Executive Officer
Approval Date	13th November 2015
Expiry Date	27th July 2017
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