

Prevention of Harassment, Bullying and Discrimination Policy

Section 1 - Overview

(1) The University values its staff and promotes a safe and healthy workplace and learning environment that ensures the right of all people to be treated with dignity and respect.

(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 of this Policy.

(3) This Policy is to be read in conjunction with the [Prevention of Harassment, Bullying and Discrimination Procedure](#) and relevant State and Federal legislation. For the avoidance of doubt, the obligations of UNE Representatives are in addition to those set out in related policies and procedures, including but not limited to the [Code of Conduct](#), [Conflicts of Interest Policy](#) and the [Work Health and Safety Rule](#).

Section 2 - Scope

(4) This Policy applies to all UNE Representatives of the University (as defined under this Policy) and includes, for example and where applicable, conduct between staff members and by staff towards students.

Section 3 - Policy

Policy Principles

(5) 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

(6) UNE Representatives are required to 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. Promoting mutual respect and acceptance of diversity;
- 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. Cooperating in any investigation in the event of an allegation of unacceptable behaviour, as requested; and
- f. Supporting and promoting this Policy.

Roles and Responsibilities

(7) Senior Executives, Head of Cost Centre and Managers must exercise due diligence to ensure the University 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 its obligations.

(8) All UNE Representatives have a duty to take reasonable care of 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

(9) 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. Bullying;
- b. Discrimination;
- c. Harassment;
- d. Vilification; or
- e. Sexual Harassment.

Bullying

Workplace Bullying

(10) Workplace bullying is repeated unreasonable behaviour directed towards a worker or a group of workers of which the worker is a member, where the behaviour creates a risk to health and safety. Examples of behaviours, whether intentional or unintentional, that may be considered to be workplace bullying if they are unreasonable and repeated include:

- a. Issues Relating to Work Climate
 - i. Abusive, insulting or offensive language or comments;
 - ii. Behaving aggressively;
 - iii. Teasing or practical jokes;
 - iv. Pressuring someone to behave inappropriately;
 - v. Unjustified criticism or complaints; or
 - vi. Spreading misinformation or malicious rumours.
- b. Issues Relating to the Nature of Work
 - i. Continuously and deliberately excluding someone from workplace activities;

- ii. Withholding information that is vital for effective work performance;
- iii. Unreasonable work demands, including too much or too little work, or work below or beyond a worker's skill level;
- iv. Setting unreasonable timelines or constantly changing deadlines;
- v. Denying access to information, supervision, consultation or resources such that it has a detriment to the worker;
- vi. Changing work arrangements, such as rosters and leave, to deliberately inconvenience a particular staff member or members; or
- vii. Excessive scrutiny at work.

(11) 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.

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

What is not Workplace Bullying?

(13) 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 seek to ensure that these incidents do not escalate.

(14) Reasonable management action carried out in a reasonable way is not workplace bullying. A manager may direct and control the way work is carried out, allocate work, give fair and reasonable feedback on a staff member's performance, make performance decisions and take disciplinary action. These actions are usually not considered to be bullying if they are carried out in a reasonable manner, taking 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 and/or relevant policies and procedures);
- d. Deciding not to promote a staff member where the University's policies and procedures are followed and decisions documented;
- e. Informing a staff member about unsatisfactory work performance where undertaken within the provisions of the relevant Enterprise Agreement and/or relevant policies and procedures;
- 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, relevant Enterprise Agreement and/or relevant policies and procedures.

(15) Low level workplace conflict: not all interpersonal conflict or disagreements constitute bullying e.g disagreeing with a work colleague as to strategies for project delivery. UNE Representatives can 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 and/or relevant policies and procedures.

Discrimination

(16) Unlawful 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. When discrimination is based on certain grounds it may form the basis for complaint under State or Federal legislation. These grounds include; sex, pregnancy, marital or domestic status, carer responsibilities, sexuality, race, colour, nationality, descent, ethnic, ethno-religious or national origin, disability or age.

(17) Special measures taken for the sole purpose of securing adequate advancement of certain groups or individuals may not be discriminatory.

Harassment

(18) Unlawful harassment generally involves unwelcome behaviour that is reasonably likely in the circumstances to intimidate, insult, offend or humiliate a person or a group of people because of a particular personal characteristic such as race, sex, age, gender, disability or sexuality.

Vilification

(19) Vilification is any form of conduct by a public act that incites hatred against, serious contempt for, or severe ridicule of another person or a group of persons including on the grounds of the race, colour, nationality, descent, ethnic, ethno-religious or national origin, homosexuality, HIV/AIDS status or transgender status of the person or members of the group.

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

(21) Exceptions include when a public act can be established as done reasonably and in good faith for artistic, academic, scientific or research purposes.

Sexual Harassment

(22) Sexual harassment is defined as: an unwelcome sexual advance or unwelcome request for sexual favours or other unwelcome conduct of a sexual nature in relation to the person harassed in circumstances in which a reasonable person, having regard to all the circumstances would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

(23) What is reasonable? A range of considerations can have an impact on the determination of whether the conduct of a person is reasonable and these include: sex; age; sexual orientation; gender identity; intersex status; marital or relationship status; religious belief, race, colour, national/ethnic origin; physical or other impairment and nature of any relationship between the people involved.

(24) Sexual harassment can take various forms and may be obvious or indirect, physical or verbal, repeated or one-off and can be conduct toward the same or opposite sex.

(25) Sexual harassment does not have to be continuous or repeated to occur. Some actions or conduct are so offensive that they can constitute sexual harassment as a one-off event or incident. Other single incidents, such as an unwanted invitation or compliment, are capable of not being considered sexual harassment, particularly should they not be repeated.

(26) Behaviour which is based on mutual attraction, friendship or respect and that is consensual, welcome and reciprocated, is not sexual harassment. Behaviour can become sexual harassment if the interaction changes from being based on mutual attraction, friendship and respect to non-consensual, unwelcomed and unreciprocated interactions.

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

- a. Physical contact – such as unwelcome touching, patting, pinching, embracing someone, kissing or deliberately brushing up against someone; or behaviour that may also be considered to be an offence under criminal law, such as physical or sexual assault;
- b. Verbal statements – questions about someone's private life, insult or taunts of a sexual nature, suggestive comments or jokes, persistent and unwelcome invitations and requests for sex or sexual favours; and
- c. Non-verbal actions – staring or leering, displays of materials of a sexual nature (e.g. posters, magazines or screen savers), offensive body or hand movements, accessing sexually explicit internet sites, the sending of sexually explicit emails or texts or inappropriate advances on social networking sites, or behaviour that may also be considered to be an offence under criminal law, such as stalking, indecent exposure or obscene communications.

(28) Should a complaint of alleged sexual harassment occur it will be addressed through the Complaints procedure of the [Prevention of Harassment, Bullying and Discrimination Procedure](#).

Personal Relationships in the Workplace - the University Context

(29) Sexual harassment does not arise in the context of friendships or mutual attraction between people, provided these relationships are lawful and based on genuine choice and consent.

(30) Lawful consensual sexual relationships between work colleagues or between staff and students may be challenging in the University context, because they are sometimes underpinned by an inherent power imbalance and under certain conditions have the potential to constitute a conflict of interest. Additionally, circumstances may change and conduct that was previously welcome may become unwelcome and unlawful.

(31) In a situation where there is potential for a conflict of interest, UNE Representatives are required to disclose this in accordance with the [Conflicts of Interest Policy](#).

Retaliatory Action

(32) The 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

(33) 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 or not 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, investigation or resolution of a 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

(34) 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.

(35) 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

(36) 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

(37) Complainant means the person(s) who has/have lodged a grievance.

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

(39) Enterprise Agreements means the [University of New England Academic and ELC Teaching Staff Collective Agreement 2014-2017](#) and the [UNE Professional Staff Collective Agreement 2014-2017](#), 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.

(40) 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 and Chief Executive Officer.

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

(42) 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.

(43) Respondent means one or more persons who are the subject of a grievance.

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

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

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

Status and Details

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Glossary Terms and Definitions

"UNE Representative" - Means a University employee (casual, fixed term and permanent) contractor, agent, appointee, UNE Council member, adjunct, visiting academic 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.

"Senior Executive" - Means the Vice-Chancellor and the Vice-Chancellor's direct reports (excluding support staff).

"Head of Cost Centre" - Normally means the Dean of Faculty or Director (as the case may be) of the relevant Faculty or Directorate. Where it is not appropriate for the Dean 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 and Chief Executive Officer.