

# Prevention of Harassment, Bullying and Discrimination Procedures

## Section 1 - Scope

These procedures provide guidance on the application of the [Prevention of Harassment, Bullying and Discrimination Policy](#).

## Section 2 - Procedures

### Principles and Assumptions

(1) Wherever possible, the preferred method of resolving issues of harassment, bullying and discrimination within the workplace is informally, as close as possible to their point of origin, or by requesting the involvement of the relevant supervisor or manager.

(2) Where a staff member does not feel safe or confident enough to self-manage a situation, they can seek the assistance of another person to raise the issue, such as their supervisor or health and safety representative. Any person asked to act on behalf of a staff member should use confidential and a non-confrontational approach when discussing an issue.

(3) Where this is not appropriate, or where informal attempts to resolve the matter have been unsuccessful, the matter may be dealt with:

- a. As a formal complaint under the Grievance Procedures provided in the relevant Enterprise Agreement; or
- b. By submitting an Incident Report Form to Human Resource Services Directorate.

(4) All staff members are entitled to have matters dealt with in accordance with the principles of natural justice. The University is committed to the provision of fair and impartial processes in the resolution of all complaints.

(5) A staff member making a complaint has the right to have that complaint taken seriously, but also has the right to withdraw the complaint at any stage. Confidential support is available for affected staff through the Employee Assistance Program.

(6) A staff member against whom an allegation is made has the right to know the particulars of the complaint and the right to respond to that complaint, including the name of the complainant.

(7) There should be no reprisals or recriminations against a staff member lodging a complaint (noting that disciplinary action may result from such behaviour) with the proviso that should a complainant be found to have lodged an unsubstantiated complaint so as to cause vexation to the respondent, the University may consider taking disciplinary action against that staff member.

(8) Although the primary aim of the University's grievance procedures is to achieve satisfactory resolution within the University, at any stage a staff member may refer their complaint to an external body, such as the Fair Work Commission, WorkCover, ComCare (administers the [Work Health and Safety Act 2011](#) and [Work Health and Safety](#)

[Regulations 2011](#)), or the Australian Human Rights Commission (for allegations of sexual harassment or discrimination).

(9) Where a staff member pursues a complaint with an external body, the Grievance Resolution procedure may be suspended or terminated. In these circumstances, the University may consider and implement other actions as necessary to address concerns regarding safety and well-being of staff.

(10) Incidents of physical abuse or assault may also be illegal under criminal law. These matters should be referred to the UNE's Safety and Security and/or the police, and may constitute misconduct or serious misconduct.

## **Complaints procedure**

(11) The procedures to be followed where a staff member has a concern or complaint concerning unacceptable behaviour of another staff member are in accordance with the Grievance Resolution clause in the relevant Enterprise Agreement.

(12) Where a staff member has a concern or complaint concerning unacceptable behaviour of another staff member, they may seek advice in the first instance from a senior officer in Human Resource Services.

(13) The University encourages those affected by unacceptable behaviour to speak directly to the person engaging in the behaviour. This allows them to explain the impact of the behaviour and ask them to cease the behaviour immediately.

(14) In cases where it is impracticable or ineffective to resolve issues of unacceptable behaviour in the manner described above, the University provides formal and confidential avenues (Grievance Resolution procedures) to ensure issues are treated promptly, confidentially and according to the principles of natural justice

(15) The Grievance Resolution procedures, as outlined in the relevant Enterprise Agreement, provide a staff member with a complaint, the following options. They may:

- a. Seek advice and informal resolution of the complaint without lodging a written complaint (Stage 1 — Informal Resolution);
- b. Lodge a written complaint (by submitting a Staff Formal Grievance Resolution Form\*) and request conciliation (stage 2); or
- c. Lodge a written complaint (by submitting a Staff Formal Grievance Resolution Form) and request investigation by the University (Stage 3 — Investigation).

\*Please note, where a staff member has lodged a complaint by submitting an Incident Report Form, and the staff member has requested conciliation or investigation, the Incident Report Form will be interpreted as the Staff Formal Grievance Resolution Form for the purpose of these procedures.

(16) These three stages (collectively Grievance Resolution procedures) will normally be undertaken in sequence.

(17) In some circumstances, the seriousness of an allegation may place the University under a legal obligation to ensure that a matter is investigated beyond that which the complainant intends or wishes, in which case the University may initiate a complaint or progress a complaint on its own volition.

## **Roles and Responsibilities**

(18) All staff have a responsibility:

- a. To ensure they do not promote or engage in unacceptable behaviours or otherwise take reasonable care that their acts or omissions do not affect the health and safety of other people;
- b. To not knowingly misuse the Prevention of Harassment, Bullying and Discrimination Policy and Procedures

including making a false complaint;

- c. To comply with any reasonable instructions given by the University regarding the prevention of harassment, bullying or discrimination including compliance with the [Prevention of Harassment, Bullying and Discrimination Policy](#) and [Procedures](#); and
- d. Not to victimise any person who raises a complaint of unacceptable behaviour.

(19) In addition, Managers have a responsibility:

- a. To treat staff members fairly and reasonably in compliance with the University's [Code of Conduct](#) and all relevant policies;
- b. To actively intervene to prevent and stop unacceptable behaviours, whether or not a complaint is received;
- c. To report any such behaviour in accordance with the Grievance Resolution procedures or other formal methods as the situation warrants;
- d. For coordinating consultation with staff to find out if unacceptable behaviour is occurring or if there are unreasonable behaviours or situations likely to affect the safety and wellbeing of staff; and
- e. For monitoring patterns of absenteeism, sick leave, staff turnover, grievances, injury reports, and issues raised by Health and Safety Representatives.

(20) Due to the nature of their positions, Managers may become aware of confidential information relating to an alleged discrimination, harassment or vilification. It is important that the complainant decide themselves whether to proceed with the complaint under these procedures. The Manager must maintain strict confidentiality with regard to any specific incident, however they may contact a senior officer in Human Resource Services Directorate to discuss the possibility of other action or strategies that may support staff or address broader issues of discrimination or harassment.

(21) A Manager may be requested to assist in a conciliation or formal investigation of a matter to be resolved. They are expected to cooperate with the process and, if appropriate, take responsibility for implementing a resolution.

## Section 3 - Definitions

(22) 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.

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

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

(25) 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.

(26) 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.

(27) 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.

(28) 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;
- 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.

(29) 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.

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

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

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

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

(34) 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.

(35) 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

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