

Anti-Discrimination and Freedom from Bullying and Harassment (Staff) - Governing Policy



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1. Purpose of policy

The University of the Sunshine Coast has a legal and moral responsibility to ensure that workers and visitors are not subjected to behaviours or practices that may constitute discrimination, bullying or harassment.

The Anti-Discrimination and Freedom from Bullying and Harassment (Staff) – Governing Policy confirms the University's commitment to respecting and promoting human rights by setting an expectation of professional, responsible and respectful behaviour to ensure a productive workplace and learning environment.

2. Policy scope and application

This policy applies to all University workers and visitors.

3. Definitions

Please refer to the University's Glossary of Terms for policies and procedures. Terms and definitions identified below are specific to this policy and are critical to its effectiveness:

Bullying is repeated and unreasonable behaviour directed towards an individual or a group that creates a risk to health and safety.

Bullying also includes Workplace Bullying, which is repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety. Bullying, including workplace bullying, does not include reasonable management action that is carried out in a reasonable manner.

It is possible for a person to be bullied, harassed and discriminated against at the same time.

Detailed below are examples of behaviours, whether intentional or unintentional, that may be regarded as bullying or workplace bullying if they are repeated, unreasonable and creates a risk to health and safety. This is not an exhaustive list – however, it does outline some of the more common types of behaviours. Examples include:

- Abusive, insulting or offensive language or comments
- Unjustified criticism or complaints
- Deliberately excluding someone from workplace or study-related activities
- Withholding information that is vital for effective work or study performance
- Setting unreasonable timelines or constantly changing deadlines
- Setting tasks that are unreasonably below or beyond a person's skill level
- Denying access to information, supervision, consultation or resources to the detriment of a worker or student
- Spreading misinformation or malicious rumours
- Changing work arrangements to deliberately inconvenience a particular worker or workers.

Workplace bullying is not a simple abuse of power from supervisors to subordinate employees: for example, staff or students can bully their supervisors, and bullying can occur between members of an ostensibly equal group. Bullying, including workplace bullying, can be carried out in a variety of ways including through email and text messaging or social media channels.

Discrimination, as defined in the Anti-Discrimination Act 1991 (Qld), means to treat an individual less favourably because of an attribute listed in that Act, or to impose unreasonable terms or conditions for which individuals with a particular attribute are unable to comply. Attributes include:

- parental status
- pregnancy
- breastfeeding
- religious belief or activity
- political belief or activity
- relationship status
- sex
- lawful sexual activity

APPROVAL AUTHORITY

Council

RESPONSIBLE EXECUTIVE MEMBER

Vice-Chancellor and President

DESIGNATED OFFICER

Director, Human Resources

FIRST APPROVED

26 November 2002

LAST AMENDED

26 February 2020

REVIEW DATE

11 April 2022

STATUS

Active

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- gender identity
- sexuality
- age
- race, nationality or ethnic origin
- disability or impairment
- trade union activity
- family responsibilities
- association with, or relation to, a person identified on the basis of any of the above attributes.

Discrimination can be either direct or indirect. Direct discrimination takes place when an individual is disadvantaged or treated less favourably than another person. Indirect discrimination happens when a practice or policy appears to be fair because it treats everyone the same way but actually disadvantages people from a particular group.

Harassment is any form of behaviour that is unwelcome, unsolicited, unreciprocated and usually (but not always) repeated. It is behaviour that is likely to offend, humiliate or intimidate. Harassment can be based on any of the attributes listed under the definition of discrimination and for example can include sexual, disability, racial, sexuality or gender based harassment.

Human rights, are those rights defined in the Human Right Act 2019 (Qld), based on human rights that are recognised in international covenants including the International Covenant on Civil and Political Rights (ICCPR), the Universal Declaration of Human Rights (UDHR), the United Nations Declaration on the Rights of Indigenous People (UNDRIP) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

In particular, section 15 of the Act protects the right to recognition and equality before the law, which entitles every person to be effectively protected against discrimination.

Repeated behaviour refers to the persistent nature of the behaviour and can involve a range of behaviours over time.

Reasonable management action means management action taken to direct and control the way work is carried out. It is expected that staff will at times have to discuss inadequacies of performance with other staff, and may have to instruct them in more effective ways of performing their duties. These acts do not constitute workplace bullying. Similarly, providing guidance, conducting performance counselling, commencing unsatisfactory performance procedures or misconduct procedures does not in itself constitute workplace bullying. It is appropriate and expected that both managers and supervisors will offer constructive and legitimate advice and comment as part of their role in a way that does not demean or humiliate. Examples of reasonable management actions include:

- Setting reasonable performance goals, standards and deadlines
- Rostering and allocating working hours in accordance with the USC Enterprise Agreement
- Implementing organisation change or restructuring
- Deciding not to select a staff member for promotion or appointment where a reasonable process is followed
- Taking disciplinary action, including suspension or terminating employment.

Sexual harassment means any unsolicited, unwelcome and unreciprocated behaviour, act or conduct of a sexual nature that offends, humiliates or intimidates other persons. It can be a single incident or a persistent pattern and can range from subtle behaviour to explicit demands for sexual activity or criminal assault. Sexual harassment includes but is not limited to the following examples:

- inappropriate jokes or comments with sexual connotations
- the display of offensive material
- stares and leers or offensive hand or body gestures
- comments and questions about another person's sexual conduct and/or private relationships
- persistent unwelcome invitations
- requests for sexual favours
- offensive written, telephone or email communication, or any other electronic means of communication
- unnecessary close physical proximity including persistently following a person
- unwelcome physical contact such as brushing against or touching a person
- denigrating comments regarding a person's gender or sexual preference
- negative behaviours, e.g., intimidation or exclusions related to the sex of the recipient

Unreasonable behaviour means behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.

Victimisation means treating someone unfairly because they have made, or intend to make, a bullying, discrimination or harassment complaint. This also includes those who have supported another person in making a complaint. Victimisation of any person involved in a complaint is unacceptable and may constitute a breach of the Staff Code of Conduct – Governing Policy.

Worker has the meaning as defined in the Work Health and Safety Act 2011 (Qld).

Workplace conflict means perceived or real differences of opinion and disagreements. Workplace conflict is not generally considered to be workplace bullying as people can have differences and disagreements in the workplace without engaging in repeated, unreasonable behaviour that creates a risk to health and safety.

4. Principles

4.1 The University is committed to fostering the right of individuals to be free from bullying, discrimination and harassment, while engaged in activities undertaken as part of their employment or other association with the University of the Sunshine Coast.

4.2 The University will not tolerate discrimination, bullying or harassment under any circumstances and the University will take all reasonable steps to eliminate behaviours or action of, or by, workers, students, visitors and other members of the University community in accordance with the Staff Code of Conduct – Governing Policy.

4.3 The Work Health and Safety Act 2011 imposes an obligation on all workers and visitors to take reasonable care of their own health and safety, and to take reasonable care that their acts or omissions do not adversely affect the health and safety of others.

4.4 The Fair Work Act 2009 makes workplace bullying unlawful, and provides protection for workers who believe they are being bullied where workplace measures have not satisfactorily addressed the behaviour.

4.5 Discrimination, bullying and harassment may:

- Lead to increased absenteeism, reduced employee productivity and motivation
- Adversely affect the health and wellbeing of workers, students and visitors
- Create a distressing, intimidating, offensive or hostile work or study environment
- Result in the resignation of skilled and experience employees;
- Adversely affect a person's access to and/or participation in educational opportunities provided by the University;
- Adversely affect a person's recruitment, level of appointment, progression and promotion opportunities;
- Adversely reflect on the University's reputation.

4.6 The University will use educative approaches for the prevention of discrimination, bullying and harassment, ensuring staff know their rights and responsibilities, and to encourage the reporting of behaviour that breaches this policy.

4.7 All managers and supervisors have a responsibility to ensure this policy is adhered to, and to take appropriate action in circumstances where they become aware of existing or possible discrimination, bullying or harassment.

4.8 Should a complaint of alleged discrimination, bullying or harassment by a staff member arise, the University will take timely and appropriate action through the Guidelines for the Resolution of Complaints – Staff.

4.9 The principles of natural justice apply and will guide the application of this policy and associated policies, procedures and guidelines. This means that before a decision is taken about them, respondents to a complaint have the right to:

- a. be informed about the nature and content of the issue;
- b. be heard; and
- c. have an unbiased decision maker.

4.10 In all matters, the University will act and make decisions in a way compatible with human rights, as defined in the Human Rights Act 2019 (Qld).

4.11 The complaint resolution process is carried out in good faith. Complaints that are vexatious will be rejected, and may constitute an infringement of the Staff Code of Conduct – Governing Policy.

4.12 If bullying, harassing or discriminatory behaviour involves violence, for example physical assault or the threat of physical assault, it should be reported to the police.

5. Authorities/Responsibilities

The following authorities are delegated under this policy:

ACTIVITY	UNIVERSITY OFFICER
Ensuring the maintenance of a workplace and study environment which is free from discrimination, bullying and harassment.	All workers and visitors
Ensuring that, when an allegation of discrimination, bullying or harassment is brought to their attention, that appropriate action to remedy the situation is expeditiously taken.	Managers and supervisors
Monitoring and reporting regularly to the Vice-Chancellor and President on the operation of this policy.	Director, Human Resources

END

RELATED DOCUMENTS

Acceptable Use of ICT Resources - Governing Policy
Acceptable Use of ICT Resources - Procedures
Enterprise Risk Management - Governing Policy
Equity and Diversity - Governing Policy
Health, Safety and Wellbeing - Governing Policy
Social Media - Operational Policy
Staff Code of Conduct - Governing Policy
Student Conduct - Governing Policy

SUPERSEDED DOCUMENTS

Discrimination and Harassment - Governing Policy|Preventing and Responding to Workplace Bullying - Managerial Policy

RELATED LEGISLATION / STANDARDS

Anti-Discrimination Act 1991 (Qld)
Work Health & Safety Act 2011
Age Discrimination Act 2004 (Cwlth)
Disability Discrimination Act 1992 (Cwlth)
Racial Discrimination Act 1975 (Cwlth)
Work Health and Safety Regulations 2011 (Qld)
Australian Human Rights Commission Act 1986 (Cwlth)
Fair Work Act 2009 (Cwlth)
Sex Discrimination Act 1984 (Cwlth)
Human Rights Act 2019 (Qld)