

Responding to Violence (Students) Procedure

Section 1 - Background and Purpose

Preamble

- (1) La Trobe University aspires to provide an outstanding student experience that is conducive to scholarly activity and supportive of individual learning goals. Underpinning this experience is a safe, inclusive and respectful environment.
- (2) La Trobe University will not tolerate instances of violence or unacceptable behaviour on any La Trobe University campus, or when representing La Trobe University within the broader community.
- (3) Our commitment is to listen, believe and support those affected by violence or at risk of violence to ensure no one within the La Trobe community feels unsafe or alone.

Section 2 - Scope

- (4) Occupational Health and Safety laws are designed so that La Trobe University protects the health and safety of its staff, students and visitors. These Procedures provide guidance for understanding violence and responding to instances of violence when they do occur.

Section 3 - Policy Statement

- (5) Refer to the Student Behaviours Policy.

Section 4 - Procedure

Violence

- (6) La Trobe University recognises the following behaviours as constituting violence:

- a. physical violence
- b. sexual violence
- c. emotional, psychological and financial violence and intimidation
- d. intimate partner, domestic and family violence
- e. verbal abuse.

- (7) The aforementioned behaviours may occur in person or via remote, digital or cyber means.

Physical Violence

(8) The act of using physical force or violence by a person against another person or thing may include, but is not limited to:

- a. applied force or threats to apply force
- b. fighting, biting, spitting, scratching and kicking
- c. pushing, hitting, shoving, tripping and grabbing
- d. use or threatened use of a weapon (for example knives, guns and clubs).

Sexual Violence

(9) Sexual violence is any behaviour of a sexual nature that makes someone feel uncomfortable, frightened, intimidated or threatened. Sexual violence occurs any time a person is coerced or manipulated into any unwanted sexual activity, such as touching, sexual harassment and intimidation, forced marriage, trafficking for the purpose of sexual exploitation, sexual abuse, sexual assault and rape.

Sexual Assault and Consent

(10) Consent – or the lack of it – is an important part of legal and social definitions of sexual assault. The legal definition of consent is ‘free agreement’. La Trobe University holds the standard of ‘affirmative, unambiguous and conscious decision by each participant to engage in mutually agreed-upon sexual activity.’

(11) Capacity is based on the person:

- a. being of legal age (16 years in Victoria and NSW)
- b. being sober: if someone is drunk, stoned or ‘out of it’, their ability to make decisions is so impaired, so they are not able to give affirmative consent
- c. having the mental and physical ability to freely agree: a person has to have the mental and physical ability to make decisions and to communicate their desires.

(12) The law says there is no valid consent where:

- a. threats have been made, including to harm themselves or someone else
- b. a party is detained against their will
- c. a party is asleep, unconscious, affected by drugs or alcohol
- d. a party is unable to understand the sexual nature of the act
- e. a party is unclear about the identity of the person performing the act
- f. a party is mistaken in believing the act is for medical or hygienic purposes.

(13) Examples of sexual violence include, but are not limited to:

- a. rape, rape by compelling or coercive penetration, sexual assault
- b. unwanted kissing or touching or compelling unwanted sexual touching and stalking
- c. obscene gestures and indecent exposure
- d. pressuring for dates or demand for sex via coercive means or threats
- e. sharing intimate photographs via digital means without consent
- f. unwanted, offensive and invasive interpersonal communication via mobile phones, internet social networking sites and email.

Psychological Violence

(14) Psychological violence can include a range of controlling behaviours and may occur face-to-face or via digital means.

(15) Examples of psychological violence include, but are not limited to:

- a. being threatened with injury, abandonment or death
- b. control of finances
- c. isolation from family and friends and/or confinement
- d. intentionally frightening or continual humiliation
- e. threats against children or family
- f. any other treatment which may diminish the sense of identity, dignity and self-worth.

Family, Domestic and Intimate-Partner Violence

(16) Family violence is a broader term than domestic violence as it refers to violence not only between intimate partners, but also violence between family members. Family violence happens in all kinds of relationships, including (but not limited to):

- a. intimate: partners, lovers, husband and wife/spouses, ex-partners
- b. older people and their children (elder abuse)
- c. other family members, including children and step-parents
- d. parents and their children.

(17) Family violence or abuse serves to establish and maintain power and control over another person (including children) and includes behaviours that cause physical, sexual or psychological harm to those within the family or relationship. Family violence encapsulates the broader issue of violence within extended families, kinship networks and community relationships, as well as intergenerational issues.

(18) Examples include but are not limited to:

- a. violent, intimidating or threatening behaviour
- b. any form of behaviour that coerces or controls a family member or causes them to be fearful
- c. physical, sexual, emotional, psychological and financial abuse
- d. any other treatment which may diminish the sense of identity, dignity and self-worth.

Victimisation

(19) La Trobe University prohibits retaliation against students, staff, and external, work-related people who are a party to a complaint of unacceptable behaviour.

(20) Victimisation is subjecting or threatening to subject someone to a detriment because they have asserted their rights under equal opportunity law, made a complaint, helped someone else make a complaint, or refused to do something because it would be discrimination, sexual harassment or victimisation. Victimisation is against the law.

(21) It is also victimisation to threaten someone (such as a witness) who may be involved in investigating an equal opportunity concern or complaint.

(22) Victimisation is a very serious breach of policy and may result in formal discipline against the perpetrator.

Formal Events and Student Placements

(23) Students attending placements, conferences, or events on behalf of La Trobe University are expected to behave in accordance with La Trobe's Student Behaviour Policy. Students are also protected by law when undertaking a placement and can report any unacceptable behaviour to the University.

Use of Equipment

(24) Students must not use any La Trobe University equipment/resources or the La Trobe University brand to act unacceptably, violently, or to threaten violence against another person, group of people or organisation (or the like).

(25) More particularly, students must not create, send, store, upload, access, use, solicit, publish or link La Trobe University equipment/brand to:

- a. offensive, obscene, profane, sexual or indecent images or material
- b. material likely to cause annoyance, inconvenience or distress to some individuals or cultures
- c. material likely to cause harm or disrepute to La Trobe University or its reputation
- d. send or publish content which breaches policy/procedure or legislation.

(26) Refer to the Use of Computer Facilities Statute 2009

Residential Students

(27) Residential students are responsible for ensuring their visitors or invitees do not breach any La Trobe University statutes, by-laws, regulations, rules, policies or procedures whilst on La Trobe University premises (including the Accommodation Services precinct).

Obligations and Legal Issues

Obligation to Act

(28) Should a serious allegation of unacceptable behaviour be raised, La Trobe University may have a legal obligation to investigate regardless of the person's wishes. Some matters may also be considered an offence under Criminal Law and be reported to the Police, including assault (physical and sexual) and threats of violence.

False, Malicious and Vexatious Claims

(29) If a student is found to have raised a false or deliberately misleading, vexatious or malicious claim against another person they may face disciplinary action and appropriate actions will be taken to address the unacceptable behaviour in accordance with the General Misconduct Statute.

Confidentiality

(30) Staff must ensure that confidentiality is maintained during and after the process of making and resolving complaints. Students may only discuss the complaint with those legitimately and directly involved in the complaint or its resolution. Breaches of confidentiality could result in disciplinary action being taken. This requirement seeks to protect the rights and privacy of all involved whilst ensuring a respectful and productive environment.

Recording Conversations

(31) Making recordings of conversations and/or behaviour on devices such as (but not limited to) phones and recorders without consent undermines the confidentiality and integrity of the process of complaint resolution. Therefore, La Trobe University strictly prohibits recordings without explicit consent from all parties involved in a conversation. Should consent be obtained, such consent is to be recorded on the recording device at the

commencement of the recording.

Responding to Allegations of Violence

(32) Emergency incident

(33) Students and staff are encouraged to call Campus Security if they witness unacceptable behaviour or require emergency support. Students can call 03 9479 2222 or ex. 2222. Further information about emergency procedures may be found on the security website: <http://www.latrobe.edu.au/security>

Making a formal complaint

(34) Students are encouraged to report violence and make a formal complaint if you are a victim or witness violent behaviour. La Trobe University will adhere to legal processes and investigations and will conduct their own internal investigation into any allegations of violence if this does not put at risk a Police investigation.

Disclosure

(35) When an allegation of violence is disclosed it is important that the person receiving the disclosure act in a timely, respectful and supportive manner. Ensure a safe environment for all parties, and if concerned about immediate safety, please call Security for assistance.

Resolving Issues

Making a complaint

(36) Engaging in local level resolution will not be appropriate if violent behaviour is alleged.

(37) Students are encouraged to make a complaint via the online web form to Student Complaints. Student Complaints will then assess the complaint and refer to the appropriate staff or area within 1-2 business days, unless the matter is complex and requires more time. If this occurs, the complainant will be notified.

(38) Please note that the complaint is confidential until it becomes necessary to share that information to further the complaint process.

Referral for Investigation

(39) Any allegation of violence is to be referred to a senior staff member who must conduct an investigation into the behaviour and prepare a fact-finding brief.

General Misconduct Process

(40) Under s. 5 of the General Misconduct Statute, a student who engages in general misconduct is liable for punishment under the Statute

(41) A senior member of staff must investigate any alleged or suspected act of general misconduct on the part of a student which he, she or they become aware of or which is brought to his, her or their attention

(42) If the senior member of staff is satisfied there is enough evidence to support a finding of general misconduct, the senior member must report the matter to a General Misconduct Officer for determination

(43) The General Misconduct Officer must hear and determine all allegations of general misconduct reported to them under the statute. The Officer is bound to the rules of procedural fairness, not bound by the rules of evidence applicable to courts

(44) The student may be accompanied by a support person, other than a legal practitioner or person with a law degree

(45) If there is a finding of general misconduct, the General Misconduct Officer may impose any of the consequences outlined in s. 10(4).

Appeals Process

(46) If the student perceives that the behavioural concern has not been adequately addressed through the formal complaints process, the decision may be appealed.

(47) Once all reasonable steps have been taken to resolve the complaint with the person or department in question, individuals may contact the University Ombudsman. Their contact number is 03 9479 1897 and their email is ombudsman@latrobe.edu.au.

(48) If the matter is still not resolved, the person may contact an external body for assistance, such as the Victorian Ombudsman.

Emergency Assistance

Emergency Support

(49) For emergency support students and staff are encouraged to contact Campus Security on 03 9479 2222 or ex. 2222. Further information about emergency procedures can be found by visiting <http://www.latrobe.edu.au/security>. Alternatively, you can call Victoria Police on 000.

Support Services

Violence Prevention and Support Hotline

(50) La Trobe University has established a free and confidential service provided by independent professional counsellors which can be accessed by those affected by violence 24 hours a day, 7 days a week. Call 1300 687 399.

General Support

(51) Students may access more general support for behaviours of concern and other general enquiries from the below services:

ASK La Trobe

(52) ASK La Trobe is the 24/7 student Q&A help service about study and student life.

<http://latrobe-current.custhelp.com>

Student Counselling and Mental Health

(53) Providing free and confidential short term individual counselling to currently enrolled students. For bookings, contact:

<http://www.latrobe.edu.au/students/wellbeing/counselling/about>

Equity and Diversity

(54) Students that have disability or who are from a refugee background may access Equity and Diversity for a range of support. Please visit the wellbeing website for all contact details

<http://www.latrobe.edu.au/students/wellbeing>

Student Union and Associations

(55) Offering a range of support for students seeking assistance with academic issues, advocacy, legal assistance, emergency housing or tax/financial help.

Albury-Wodonga: <http://www.wsawodonga.com.au/>

Bendigo: 03 5444 7514 or visit <https://www.bsabendigo.com.au/>

Bundoora: 03 9479 2314 or visit <http://www.latrobesu.org.au/>

Shepparton: 03 5820 8607 or visit <http://www.latrobesu.org.au/>

Mildura: 03 5051 4053 or visit <http://www.latrobesu.org.au/>

Psychology Clinic (Melbourne)

(56) Psychological therapy, child behaviour clinic, neuropsychological assessments and programs, group programs.

Telephone: (03) 9479 2150

email: psych-clinic@latrobe.edu.au

Section 5 - Definitions

(57) This Policy accepts the definitions outlined in related legislation.

- a. Complaint is defined as a problem or condition which a student believes to be unfair, inequitable, discriminatory and/or creates an unsafe learning environment and which is formalised in writing for the purpose of these procedures.
- b. Malicious is characterised by the intentionally harmful; spiteful act.
- c. Residential Students/Residents are students whose name(s) are listed in the Residential Agreement. La Trobe University residences include residences, residential apartments or any of the regional properties managed by La Trobe University Accommodation Services.
- d. Senior Staff Member is a University staff member who has the authority to redress violence or unacceptable behaviour, who has the duty to report incident of violence or other student conduct, or who a student could reasonably believe has this authority or duty (this includes a staff member currently employed at Level C or HE09 and above)
- e. Vexatious is to cause or tend to cause annoyance, frustration, or worry.

Status and Details

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