

# Anti-Bullying and Harassment (Students) Procedure

## Section 1 - Background and Context

### 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) At La Trobe University, the inherent value of each person is respected. Our behaviour must therefore afford dignity, courtesy, equality and mutual respect, which we share across cultures, religions and philosophies.

## Section 2 - Scope

(3) This Policy specifically covers related behaviours such as discrimination (direct/indirect and legal protections), harassment (general, sexual and racial), bullying (direct/indirect and intentional/unintentional), vilification and victimisation.

### General

(4) These Procedures provide guidance for understanding:

- a. discrimination, harassment, bullying, vilification and victimisation
- b. what unacceptable behaviour is in this context
- c. what to do if witnessing or experiencing unacceptable behaviour
- d. obligations for La Trobe University and students.

(5) Refer to the Responding to Violence Procedure for further information on unacceptable behaviour in relation to violence.

## Section 3 - Policy Statement

(6) Refer to the [Student Behaviours Policy](#).

## Section 4 - Procedure

### Discrimination

(7) Discrimination may occur when distinctions are made between individuals/groups so as to disadvantage some and advantage others. It can be classified as either direct or indirect.

(8) Direct Discrimination - when someone is treated less favourably than another person/group in a similar situation because of personal characteristics protected by law.

(9) Indirect Discrimination - when an unreasonable requirement, condition or practice is imposed that has, or is likely to have, the effect of disadvantaging people with a personal characteristic protected by law.

(10) Protected Personal Characteristics include:

- a. a disability, disease or injury, including work-related injury
- b. parental status or status as a carer
- c. race, colour, descent, national origin, or ethnic background
- d. age, whether young or old
- e. sex
- f. sexual orientation, intersex status or gender identity, including gay, lesbian, bisexual, transsexual, transgender, queer and heterosexual
- g. industrial activity, including being a member of an industrial organisation such as a trade union or taking part in industrial activity, or deciding not to join a union
- h. religion
- i. pregnancy and breastfeeding
- j. marital status, whether married, divorced, unmarried or in a de facto relationship or same sex relationship
- k. political opinion
- l. social origin
- m. medical record
- n. mental health concern
- o. an association with someone who has, or is assumed to have, one of these characteristics e.g. being the parent of a child with a disability.

(11) It is also against the law to treat someone unfavourably because you assume they have a personal characteristic or may have it at some time in the future.

## **Harassment**

### **Harassment**

(12) Harassment occurs when uninvited or unwelcome behaviour causes someone, or a group of people, to feel intimidated, insulted or humiliated. It can occur in a single incident or a series of incidents. Harassment may also be experienced as a result of witnessing behaviour not directed to that person e.g. overhearing an unacceptable joke. Each person perceives things differently as their values and experiences are unique to them. As such, they may react differently to how someone might expect.

(13) A single incident is enough to constitute harassment – it doesn't have to be repeated.

### **Sexual Harassment**

(14) Sexual harassment is a specific and serious form of harassment. It is unwelcome sexual behaviour, which could be expected to make a person feel offended, humiliated, uncomfortable or intimidated. Sexual harassment can be physical, spoken or written.

(15) Just because someone does not object to inappropriate behaviour at the time, it does not mean that they are consenting to the behaviour.

(16) There are specific sexual harassment provisions for educational institutions in the Sex Discrimination Act 1984, Section 28F.

(17) Examples may include, but are not limited to:

- a. comments about a person's private life or the way they look
- b. sexually suggestive behaviour, such as leering or staring
- c. brushing up against someone, touching, fondling or hugging
- d. sexually suggestive comments or jokes
- e. repeated unwanted requests to go out or requests for sex
- f. sexually explicit posts on social networking sites, emails or text messages.

## **Racial Harassment**

(18) Racial harassment is another form of serious harassment. It describes any unwelcome conduct in relation to a person's colour, race, nationality, social or ethnic origin or extraction. It can range from relatively minor abuse to physical violence. It can be discriminatory remarks, jokes, behaviours or practices which show racial intolerance against another person.

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

## **Bullying**

(20) Bullying is the repeated, unreasonable and less favourable treatment of a person. It includes behaviour that intimidates, offends, degrades or humiliates a person and may create a risk to their health and safety.

(21) If someone is being bullied because of a personal characteristic protected by equal opportunity law it is a form of discrimination.

(22) Bullying can:

- a. take many forms, including jokes, teasing, nicknames, emails, pictures, text messages, social isolation or ignoring people, or unfair work practices
- b. involve many different forms of unreasonable behaviour, which can be obvious (direct) or subtle (indirect)
- c. be intentional, where someone's actions are intended to humiliate, offend, intimidate or distress, whether or not the behaviour resulted in that effect
- d. be unintentional through engaging in behaviour that results in humiliation, offence, intimidation, distress and could reasonably have been expected to cause that effect.

(23) Sometimes people do not realise that their behaviour can be harmful to others.

## **Hazing**

(24) Students are not permitted to engage in any action taken or any situation created intentionally that causes embarrassment, harassment or ridicule and risks emotional and/or physical harm to an individual or members of a group or team, regardless of the person's willingness to participate (often referred to as 'hazing').

(25) The difference between hazing and bullying is subtle, which is why they are often used interchangeably. The same power dynamics are involved and the same intimidation tactics used.

(26) The only real difference between hazing and bullying is that bullying usually involves singling out an individual at any time and bullying them as a means to exclude them. Hazing, on the other hand, involves including people by

having them 'earn' their way into a group or onto a team.

(27) Bullying is about exclusion. Hazing is about inclusion.

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

## **Vilification**

(29) Vilification occurs when someone incites hatred towards, serious contempt for or severely ridicules a person or group of persons on the grounds of their race, religion, sex or sexual orientation, gender identity, colour, nationality, descent, ethnicity, ethno-religious status, national origin, homosexuality, HIV or AIDS status, disability or lawful sexual activity.

## **Victimisation**

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

(31) 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.

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

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

## **Formal Events and Student Placement**

(34) 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**

(35) Students are not to use any La Trobe University equipment in a manner that may breach any La Trobe University policy/procedure or legislation.

(36) 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.

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

## **Residential Students**

(38) 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

(39) 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

(40) 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.

### Confidentiality

(41) 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 in its resolution. Breaches of confidentiality could result in disciplinary action being taken.

(42) This requirement seeks to protect the rights and privacy of all involved and to ensure a comfortable and productive environment. Should a student's complaint become more widely known, there is the potential for undue embarrassment and tension. In addition, it is less likely the complaint will be successfully resolved.

### Recording Conversations

(43) Making secret recordings of conversations (on devices such as phones, recorders, etc.) 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.

## Resolving Issues

(44) There are two potential pathways for resolving issues involving discrimination, harassment, bullying, vilification and victimisation. The first involves attempting local level resolution if the student is comfortable with this process and does not wish to make a formal complaint.

- a. Local Level Resolution with assistance of a Staff Member (if appropriate)
- b. Investigation (if local level resolution fails or is inappropriate)
- c. General Misconduct

(45) The second is lodging a formal complaint via the online web form to Student Complaints.

- a. Make a complaint through Student Complaints
- b. Local Level Resolution with Staff Member (if considered appropriate as a first action)
- c. Investigation (if local level resolution fails or is inappropriate)
- d. General Misconduct

### Local Level Resolution

(46) Students can choose to undertake local level resolution if appropriate where the matter will be locally resolved with the support of staff. If students wish to choose this option they should contact a staff member to initiate action and support.

(47) The aim of local level resolution is to stop unacceptable behaviour through negotiation with the parties concerned using the following process. If a student reports an incident to staff:

- a. Ensure that the student is aware of the support services available at La Trobe University
- b. Explore options for the person bringing the complaint to manage the situation themselves through clear and direct communication about the unacceptable behaviour
- c. The person bringing the complaint needs to clearly articulate the context of the behaviour and what they would like as a resolution. Examples include, but are not limited to:
  - i. an agreement to not contact each other in any way in the future
  - ii. an agreement for the unacceptable behaviour to stop and an apology offered in writing or in person demonstrating reflection on such behaviour
  - iii. an agreement to engage socially in different parts of the University and not to speak to each other
  - iv. agreement to not post offensive material on Facebook/social media in future
- d. The negotiation of the agreement can be conducted via individual meetings with concerned parties, a discussion between the parties or email communication
- e. Both parties need to sign a written agreement which is to be witnessed by the staff member managing the resolution process.

### **Make a Complaint**

(48) If students do not feel comfortable attempting a local level resolution, they are encouraged to make a complaint via the online web form to [Student Complaints](#).

(49) 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.

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

### **Referral for Investigation**

(51) If the local level resolution:

- a. is not appropriate in the circumstance; or
- b. parties do not agree to resolution attempts; or
- c. the behaviour is repeated

(52) Matters will be referred to a senior staff member, who must conduct an investigation into the behaviour and prepare a fact-finding brief.

### **General Misconduct Process**

(53) Under s. 5 of the [General Misconduct Statute 2009](#), a student who engages in general misconduct is liable for punishment under the Statute.

(54) 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.

(55) 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.

(56) 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.

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

(58) 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**

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

(60) 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](mailto:ombudsman@latrobe.edu.au).

(61) 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**

(62) For emergency support, managing behaviours and reporting unacceptable behaviours, 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 the [Security Website](#).

## **Making a Complaint**

### **Making a Complaint**

(63) If students or staff wish to lodge a complaint please do so via the [Student Complaints web page](#), Telephone: (03) 9479 5308 or email [studentcomplaints@latrobe.edu.au](mailto:studentcomplaints@latrobe.edu.au)

## **Support Services**

### **Student Counselling and Mental Health**

(64) Providing free and confidential short term individual counselling to currently enrolled students. For bookings, visit [About the Counselling Service](#).

### **Ask La Trobe**

(65) [Ask La Trobe - Current Students Webpage](#) is the 24/7 student Q&A help service about study and student life.

### **Student Union and Associations**

(66) 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/>

### **Violence Prevention and Support Hotline**

(67) 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

### **Psychology Clinic**

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

Telephone: (03) 9479 2150  
email [psych-clinic@latrobe.edu.au](mailto:psych-clinic@latrobe.edu.au)

## **Section 5 - Definitions**

(69) 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 environment and which is formalised in writing for the purpose of these procedures.
- b. Equal opportunity is ensuring that everyone has equal access to available employment and the workplace is free from unlawful discrimination and harassment.
- c. Malicious is characterised by the intentionally harmful; spiteful act.
- d. Marital or relationship status is a person's status of being any of the following:
  - i. single
  - ii. married and married, but living separately and apart from his or her spouse
  - iii. divorced
  - iv. the de facto partner of another person
  - v. the de facto partner of another person, but living separately and apart from that other person
  - vi. the former de facto partner of another person
  - vii. the surviving spouse or de facto partner of a person who has died.
- e. Repeated behaviour refers to the persistent nature of the behaviour and can refer to a range of behaviours over time.
- f. 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.
- g. Senior Staff Member is a University staff member who has the authority to redress unacceptable behaviour, who has the duty to report incident of unacceptable behaviour, 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)
- h. Unreasonable behaviour means behaviour that a reasonable person, having regard for the circumstances, would see as victimising, humiliating, undermining or threatening.



- i. Vexatious is to cause or tend to cause annoyance, frustration, or worry.
- j. Witness is an individual who, being present personally sees or perceives a thing/event.

## Status and Details

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