

Workplace Behaviours Policy

Section 1 - Background and Purpose

(1) The University is committed to equal opportunity and appropriate professional behaviour in the workplace. This Policy specifically covers discrimination (direct/indirect and legal protections), harassment (general, sexual and racial), bullying (direct/indirect and intentional/unintentional), vilification and victimisation, occupational violence, personal relationships.

(2) The University is committed to providing a safe and healthy workplace environment.

(3) All staff, contractors, agents, official visitors and other individuals performing services/work for and on behalf of the University (collectively referred to as staff throughout this Policy) have a right to work in an environment which is free from unacceptable behaviour including discrimination, harassment, bullying, victimisation, violence and racial/religious vilification and other forms of unacceptable behaviour as deemed by the University and to be treated with dignity and respect.

(4) The Procedures provide guidance for understanding:

- a. What unacceptable workplace behaviour is;
- b. What to do if people witness or experience discrimination, harassment, bullying, victimisation, vilification and/or violence in the workplace; and
- c. The legal obligations of the University and its representatives.

(5) The [Grievance Resolution \(Staff\) Procedure](#) sets out the procedure for responding to grievances lodged in accordance with the [La Trobe University Collective Agreement 2018](#).

Section 2 - Scope

(6) This Policy applies to all staff, contractors, agents, official visitors and other individuals performing services/work for and on behalf of the University or who are engaged in activities reasonably connected with the University. Collectively referred to as staff throughout this Policy.

(7) This Policy does not apply to reasonable and legitimate management action.

(8) Staff who are also students may lodge a complaint either according to this Procedure or according to the [Student Complaints Management Policy](#). They must declare on lodging their grievance that they are also staff at La Trobe.

Section 3 - Policy Statement

Workplace Entitlement

(9) Staff are entitled to:

- a. A workplace free from unacceptable behaviour including discrimination, harassment, bullying, victimisation,

violence and racial/religious vilification and other forms of unacceptable behaviour as deemed by the University;

- b. The right to raise issues or to make an enquiry or complaint in a reasonable and respectful manner without being victimised;
- c. Recruitment and selection decisions based on merit and not affected by irrelevant personal characteristics; and
- d. Reasonable flexibility in working arrangements, especially to accommodate family and carer responsibilities, disability, religion and culture.

University Commitment

(10) Behaviour must comply with the [Code of Conduct](#) and the University's values.

(11) Behaviour relating to discrimination, harassment, bullying, victimisation, vilification and violence is not tolerated or accepted at the University, and is against the law.

(12) Our commitment is to:

- a. Provide a workplace that is free from unacceptable behaviour such as discrimination, harassment, bullying, victimisation, vilification, violence and other forms of unacceptable behaviour as deemed by the University;
- b. Take all reasonable steps to ensure our fellow staff and other external parties are treated by University representatives in line with our [Code of Conduct](#), values and our policies and procedures;
- c. Treat individuals in a non-discriminatory manner in all aspects of employment such as recruitment, compensation/benefits, training, promotion, transfer and termination;
- d. Encourage freedom of expression and academic freedom for all staff pursuant to the [Protection of Freedom of Speech and Academic Freedom Policy](#);
- e. Comply with legislation;
- f. Provide a complaints process to allow an opportunity to resolve workplace behaviour issues in a timely and fair manner; and
- g. Provide training and education to University representatives on both appropriate and unacceptable workplace behaviours and their obligations under this Policy and Procedure.

Expected Workplace Behaviour (All Staff)

(13) The University expects all staff:

- a. To treat everyone in accordance with the University's [Code of Conduct](#) and values;
- b. Not to engage in unacceptable behaviour such as discrimination, harassment, bullying/hazing, violence, vilification and victimisation. This includes any behaviour which may be perceived as:
 - i. attacking or threatening to attack a person (physically, psychologically or sexually);
 - ii. verbally abusing a person or using offensive language;
 - iii. intimidating a person;
 - iv. causing injury to a person;
 - v. harassing an individual or group;
 - vi. bullying/hazing an individual or group;
 - vii. placing the health and safety of staff, students or other third parties at risk;
 - viii. adversely impacting on the wellbeing of staff or students as deemed by the University; or
 - ix. causing damage to La Trobe University property.
- c. To participate in workplace investigations where required; and
- d. Raise a complaint when they believe they have witnessed/experienced unacceptable workplace behaviour in

accordance with this Policy and Procedure.

(14) The University expects managers to:

- a. Model appropriate behaviour themselves and promote the [Code of Conduct](#), University values and [Workplace Behaviours Policy](#) within their work area;
- b. Monitor the working environment to ensure that acceptable standards of conduct are observed at all times;
- c. Intervene quickly and act fairly to resolve issues and enforce workplace behavioural standards, making sure relevant parties are heard;
- d. Treat all complaints seriously and take immediate action to attempt to resolve the matter in accordance with the [Workplace Behaviours Policy](#); and
- e. Refer a complaint to another officer if they do not feel that they are the best person to deal with the case (for example, if there is a conflict of interest or if the complaint is particularly complex or serious).

Breach of Policy

(15) Unacceptable workplace behaviour will be dealt with having regard to the facts and circumstances of each case.

(16) Any action taken in relation to unacceptable workplace behaviour will be managed under these Procedures.

(17) Breaches of this Policy and the Procedure may lead to a variety of outcomes; for example an apology or training, through to (but not limited to) termination of employment.

Section 4 - Procedures

Discrimination

(18) 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.

Direct Discrimination

(19) Direct discrimination is when someone is treated less favourably on the grounds of an attribute (as listed below) regardless of the discriminator's motive and whether they are aware of the discrimination or consider the treatment less favourable.

Indirect Discrimination

(20) Indirect discrimination occurs when a requirement (or rule) that appears to be neutral and the same for everyone in fact has the effect of disadvantaging someone because they have an attribute covered by the [Equal Opportunity Act 2010](#). The effect has to be unreasonable.

Exceptions

(21) In some situations the legislation may provide exceptions to discrimination or permit what would otherwise be unlawful discrimination.

Legal Protections

(22) Section 6 of the [Equal Opportunity Act 2010](#) details the legal protections in employment which are intended to ensure the treatment of staff and potential staff is fair, equitable and non-discriminatory on the grounds of the following attributes:

- a. Age
- b. Breastfeeding
- c. Employment activity
- d. Gender identity
- e. Disability
- f. Industrial activity
- g. Lawful sexual activity
- h. Marital status
- i. Parental status or status as a carer
- j. Physical features
- k. Political belief or activity
- l. Pregnancy
- m. Race
- n. Religious belief or activity
- o. Sex
- p. Sexual orientation
- q. Personal association (whether as a relative or otherwise) with a person who is identified by reference to any of the above attributes.

Harassment

(23) 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. They therefore, may react differently to how someone might expect them to react.

Sexual Harassment

(24) Sexual harassment refers to an unwelcome sexual advance, an unwelcome request for sexual favours or other unwelcome conduct of a sexual nature in person or via electronic/social media. It includes:

- a. Verbal forms such as making comments about someone's appearance in a sexually suggestive way, unwelcome enquiries regarding a person's sex life, requests for sex or repeated unwelcome requests for dates, telephone calls with a sexual undertone, continuous rude or sexist jokes/remarks, sexual insults or taunts, spreading sexual rumours, threats or non-consensual disclosure of a person's sexual orientation, rating peers or colleagues with respect to sexual performance, sending sexually explicit emails or text messages;
- b. Non-verbal forms such as gestures with a sexual meaning, staring at someone or making obscene gestures or noises, stalking (including cyber stalking), "flashing" or exposing body parts; and
- c. Visual forms such as displaying objects or promotional material, reading materials or other materials that are sexually demeaning or pornographic in nature.

(25) In Australia, sexual harassment (and victimisation) is unlawful under the [Sex Discrimination Act 1984 \(Cth\)](#) as well as anti-discrimination legislation operating in every State and Territory.

(26) If the recipient does not object to unacceptable behaviour in the workplace at the time it occurs, it does not necessarily mean that they are consenting to the behaviour. In determining if sexual harassment has occurred the question asked is "would a reasonable person, having regard to all the circumstances, have anticipated that the person harassed would feel offended, humiliated or intimidated?"

(27) Sexual harassment in the workplace occurs when it happens at work and at work-related events.

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

Racial Harassment

(29) Racial harassment is another form of 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, behaviours or practices which show racial intolerance against another University representative.

Bullying

(30) Workplace bullying is the repeated unreasonable and less favourable treatment of a person. It includes behaviour that intimidates, degrades or humiliates a staff member and may create a risk to their health and safety.

(31) Repeated behaviour refers to the persistent nature of the behaviour and can refer to a range of behaviours over time.

(32) Unreasonable behaviour means behaviour that a reasonable person, having regard for the circumstances, would see as victimising, humiliating, undermining or threatening.

(33) Bullying behaviour can range from obvious verbal or physical assault (occupational violence) to very subtle psychological abuse and usually, but not always, utilises power attributed to status, skills or position.

(34) Bullying may also be discrimination if it is because of age, sex, pregnancy, race, disability, sexual orientation, religion or certain other reasons and can also take the form of cyber/social media bullying which is done through the use of technology; for example, using the internet such as social media, a mobile phone or a camera to humiliate or embarrass someone.

Direct or Indirect Bullying

(35) Bullying can involve many different forms of unreasonable behaviour, which can be obvious (direct) or subtle (indirect).

(36) Examples of direct bullying include:

- a. Abusive, intimidating or threatening language;
- b. Spreading misinformation or malicious rumours;
- c. Behaviour or language that frightens, humiliates, belittles or degrades at work, including yelling or screaming;
- d. Displaying objectionable material;
- e. Unacceptable comments about a person's appearance, lifestyle or family;
- f. Teasing or regularly making someone the brunt of pranks or practical jokes;
- g. Interfering with a person's personal property or work equipment; and
- h. Harmful or humiliating, intimidating or threatening initiation practices.

(37) Examples of indirect bullying include:

- a. Unreasonably overloading someone or not providing enough work;
- b. Setting timelines that are difficult to achieve or constantly changing;
- c. Setting tasks that are unreasonably below or beyond a person's skill level;

- d. Deliberately excluding, isolating or marginalising a person from normal work activities;
- e. Withholding information that is vital for effective work performance;
- f. Deliberately denying access to information, consultation or resources;
- g. Deliberately changing work arrangements, such as rosters and leave, to inconvenience a worker/workers;
- h. Unreasonable treatment in relation to accessing workplace entitlements such as leave or training; and
- i. Excluding a person from work related activities intending to humiliate.

Intentional or Unintentional Bullying

(38) Bullying can be intentional, where someone's actions are intended to humiliate, intimidate or distress, whether or not the behaviour resulted in that effect.

(39) Bullying can also be unintentional. Although not intended to, the actions can humiliate, intimidate, distress, cause and could reasonably have been expected to cause that effect. Sometimes people do not realise that their behaviour can be harmful to others. In some situations, behaviours may unintentionally cause distress and be perceived as bullying.

Vilification

(40) 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, sexuality, gender identity, colour, nationality, descent, ethnicity, ethno-religious status, national origin, homosexuality, HIV or aids status or trans-gender status, disability, sexual orientation or lawful sexual activity.

Victimisation

(41) Victimisation in the workplace occurs if a University representative subjects or threatens to subject another University representative to a 'detriment', because that other person has:

- a. Asserted their rights under legislation;
- b. Made a complaint or helped someone else to make a complaint;
- c. Refused to do something because it would discriminate, harass, victimise another University representative:
and
- d. Intends to provide information as a witness to unacceptable behaviour.

(42) Conduct likely to constitute a detriment in employment includes demotion, dismissal, transfer, suspension, loss of a benefit, being refused further contract work, being excluded from work or work related social functions and being the subject of gossip or innuendo.

(43) The University prohibits retaliation against staff or an external work related person just because that person is a party to a complaint of unacceptable behaviour. Should a University representative victimise someone who has raised a complaint or is party to a complaint, the University will take action in accordance with a breach of this Policy.

(44) If someone raises a genuine complaint directly with a person, it should be appreciated that an opportunity is being offered to address certain behaviour and potentially averting a more formal complaint.

Occupational Violence

(45) Occupational violence is any incident where a University representative or student is physically attacked or threatened with physical violence in the workplace.

(46) This definition expressly includes domestic violence that extends to the workplace, for example staff who are

married and an act of violence occurs within this relationship on University premises.

(47) Any act of violence that takes place in the workplace will be investigated internally and may also involve external parties such as the Police.

Personal Relationships

(48) It is not sexual harassment to develop friendships or relationships with other people at work based on mutual attraction, friendship and respect and if the interaction is consensual, welcome and reciprocated it is not sexual harassment.

(49) The University expects all staff to act ethically, with integrity and to maintain the highest professional standards at work. Those staff in personal relationships with other staff must:

- a. Ensure that work-related considerations are the only ones used in business decisions;
- b. Avoid impropriety and work without bias;
- c. Do not abuse authority;
- d. Remove and/or mitigate any conflict of interest;
- e. Declare an actual, potential or perceived conflict in accordance with the [Conflict of Interest Policy](#); and
- f. Act appropriately in the work environment.

(50) Where any conflict of interest has been identified, it will be managed in accordance with the [Conflict of Interest Policy](#).

(51) Should the University identify any behaviour/relationship which it believes to be unacceptable, disruptive or affect the work environment in a negative manner it reserves the right to review the work situation and take appropriate steps to avoid and/or resolve the situation. Refer to the [Conflict of Interest Policy](#) for further information on personal relationships.

(52) In so doing, the staff member/s who is/are the subject of the relationship may be required to undertake any and all reasonable steps and directions to resolve or avoid the issue to the extent necessary to protect the interests of the University and/or other staff.

University Functions and Activities

(53) Other than the immediate workplace (including campus), 'workplace' also extends to work social functions, conferences and events either organised by the University or organised by external parties and sanctioned by the University to attend on behalf of the University.

(54) It is a requirement that professional behaviour must be adhered to when staff attend any social functions, conferences or events.

(55) Breaches of this Policy as a result of the consumption of alcohol/drugs will not be tolerated. Being under the influence of alcohol/drugs will not be accepted as an excuse for behaviour which is unacceptable. Refer to the [Alcohol and Drugs \(Staff\) Policy](#).

Use of Equipment

(56) Employees are not to use any University equipment in a manner that may breach any University Policy or breach any local legislation.

(57) More particularly, people must not create, send, store, upload, access, use, solicit, publish or link the University equipment/brand to:

- a. Objectionable, obscene, profane, sexual or indecent images or material;
- b. Material likely to cause harm or distress to some individuals or cultures; and
- c. Send or publish content which breaches this Policy.

(58) Examples include (but not limited to) mobile devices and computers. Refer to the [Use of Computer Facilities Statute 2009](#).

Staff Actions - What to Do?

(59) If a person believes they have experienced unacceptable behaviour or if they have been a witness to such behaviour, the University strongly encourages people to do something about it. Ignoring this behaviour might be interpreted by the other person as consent or acceptance or may even place people at risk/harm.

(60) Staff must not respond to unacceptable behaviour with more unacceptable behaviour.

Witnessing Unacceptable Behaviour

(61) Staff can lodge a complaint even if they are not a party to an incident. For example, a person may complain if they overhear a racist joke made in the workplace and find this joke objectionable or if they witness one person assaulting another person.

Experiencing Unacceptable Behaviour

(62) The University encourages people to take the time to follow the correct process or seek help from their Manager, Next Up Manager, Human Resources or another support person should they feel aggrieved by unacceptable workplace behaviour.

The Decision to Make a Complaint

(63) The University encourages reporting of unacceptable behaviour and therefore provides a complaint procedure for dealing with complaints relating to workplace behaviours.

(64) The person raising a complaint has the right to:

- a. Have their concern/complaint acknowledged;
- b. Seek support and assistance at any time during the resolution process;
- c. Receive sensitive and timely responses from the person approached for assistance;
- d. Have the matter dealt with discreetly and sensitively, using an impartial process;
- e. Be advised about the resolution process;
- f. Express concerns about unacceptable behaviour without fearing or experiencing negative consequences;
- g. Discontinue the complaint with the knowledge that the University may continue to manage the complaint;
- h. Know the findings in relation to whether the complaint has been substantiated or not upon completion of the University's investigation; and
- i. Lodge a complaint externally with a relevant authority.

Principles of the Complaints Process

(65) The principles of the complaint resolution process are:

- a. Providing timely responses;
- b. Employees being dealt with sensitively;
- c. All parties are afforded fairness and impartiality;

- d. Support provided for both parties;
- e. The resolution process is victimisation free; and
- f. The principles of natural justice and procedural fairness apply.

Responding to a Complaint

(66) The University has a legal responsibility to take reasonable steps to prevent unacceptable behaviour in the workplace. This Procedure is an important part of those steps.

(67) The University takes all complaints very seriously. Where a complaint has been made, it will be investigated and, if proven, appropriate disciplinary action may be taken. We will take all reasonable steps to ensure that parties involved in the complaint will not be victimised or treated unfairly.

(68) Complaints that are vexatious or malicious may result in disciplinary action.

Complaint Process

(69) It is recommended that staff initially try to resolve a complaint personally with the other party/parties. If the staff member is comfortable to try this approach, it is generally the most effective way to ensure the continuation of a harmonious working relationship.

(70) Where resolutions can't be achieved by this approach it may be appropriate to consider lodging a formal complaint:

- a. The staff has explored and tried different ways of raising or confronting the issue without success;
- b. The issue has become untenable; for example, it involves others, divides people, and/or continues to grow unabated;
- c. The behaviour of another is having a negative impact on the staff and continues without regard to the staff member's expressed wishes;
- d. Raising the issue with the manager informally would expose the staff member to further inappropriate behaviours;
- e. In the staff member's judgment, this issue requires intervention at a more formal level; and
- f. The serious nature of the issue justifies or requires making a formal complaint.

(71) The below process provides an opportunity to resolve the complaint in a timely and fair manner.

Process to Lodge a Complaint

(72) In the first instance, staff should submit their complaint, in writing, to their manager however where this is not appropriate, complaints can be made to another manager or to Employee Relations.

Investigating Complaints

(73) To ensure consistency and fairness, the below process is usually followed (the order of events may change and an independent person who is external to the University may be used to conduct the investigation):

- a. The complainant (staff member lodging the complaint) is interviewed and the allegations are particularised in writing;
- b. The allegations are conveyed to the respondent (the person the complaint is about);
- c. The respondent is given the opportunity to respond to the allegations;
- d. If there is a dispute over facts, statements from any witnesses and other relevant evidence is gathered;

- e. A finding is made as to whether the complaint has substance; and
- f. The decision-maker reviews the finding and determines outcome/s.

Staff Who Are Also Students

(74) The person investigating a complaint lodged by a staff member who is also a student will determine whether this Policy or the [Student Complaints Management Policy](#) is the most appropriate channel for handling the complaint. In doing so, they will take into account the complainant's primary relationship with the University and their relationship to the subject of the complaint.

(75) The investigator will also determine whether the complaint is about a staff member who is also a student. If the complaint is about a staff member who is also a student, the investigator will determine whether relevant student policies and procedures or relevant staff policies and procedures are the most appropriate standard for assessing the complaint.

(76) If a complaint is lodged by or is about a staff member who is also a student, Human Resources will work collaboratively with the Student Complaints Office in resolving the complaint.

Potential Outcomes

(77) There are a number of potential outcomes that may result from resolving complaints. These will depend on factors such as:

- a. The severity and frequency of the behaviour;
- b. The weight of the evidence;
- c. The wishes of the staff lodging the complaint;
- d. Whether the staff member who is the subject of the complaint could have been expected to know that such behaviour was a breach of policy; and
- e. Whether there have been any prior incidents or warnings.

(78) The outcomes are not limited to, but may include:

No Action	If the initial assessment and/or investigation identifies that the complaint is not substantiated.
Coaching	Informal action through coaching. If the initial assessment and/or investigation identifies that the behaviour is not serious enough to warrant disciplinary action but may find that a restatement of policy and standards expected, further instruction, re-education or training and coaching the staff member is appropriate.
Restatement of Expected Behaviours	If the staff member is aware of behaviour expectations but has not followed correct procedures and/or behaviour standards, a restatement of expected behaviours will be issued and consequences of repeated instances of such behaviour will be advised.
Disciplinary Action	If the staff member commits a serious breach of policy/procedure, the University can issue a formal censure or counselling in conjunction with a written warning; withhold an increment, demotion, transfer to another position with pay appropriate to the position; suspension with or without pay and termination of employment.
Termination of Employment	Means termination of employment at the initiative of the University in accordance with relevant clauses of the Collective Agreement .

(79) Following the resolution of a complaint lodged by or about a staff member who is also a student, a staff member from Human Resources may refer the matter to the Director, Student Administration for further review in accordance with the [Student Behaviours Policy](#) and relevant policies.

Obligation to Act and Investigations

(80) Should staff raise a serious allegation of unacceptable behaviour (or even misconduct, conflict of interest etc.) the University may have a legal obligation to investigate even if the staff member does not wish to pursue the matter; refer to 'Legal Issues' below.

Legal Issues

False, Malicious and Vexatious Claims

(81) If someone is found to have raised a false or deliberately misleading claim against another person they may face disciplinary action.

Staff Confidentiality

(82) Confidentiality must be adhered to during and after the process of making and resolving complaints. Staff may only discuss the complaint with those legitimately and directly involved in the complaint or in its resolution.

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

(84) Breaches of confidentiality could result in disciplinary action being taken.

Recording Conversations

(85) Making secret recordings of conversations (on devices such as phones, recorders etc) undermines the confidentiality and integrity of the process of grievance resolution therefore the University strictly prohibits recordings without explicit consent from all parties involved in a conversation. Should consent be obtained, such consent to be recorded in writing and on the recording device at the commencement of the recording.

Legal Obligations

(86) The University can be held legally responsible for acts of discrimination or harassment that occur in the workplace or in connection with a person's employment. This is known as vicarious liability.

(87) The University can be held vicariously liable for discrimination and harassment that occurs in the workplace, or in connection with a person's employment, including at:

- a. University sponsored events, such as seminars, conferences and training workshops;
- b. Work-related social functions, such as Christmas parties; and
- c. Business or field trips.

(88) This also extends to being liable when computers, phones or tablets are used to harass a person; for example by sending text messages, posting on social media sites or sending emails that have a connection to the workplace.

(89) We also note that spreading gossip or rumours may expose staff to a defamation action.

Obligation to Act

(90) Should a serious allegation of unacceptable behaviour be raised, the University may have a legal obligation to investigate even if the staff member does not wish to pursue the matter.

Individual Liability

(91) Staff who harass, bully or discriminate against others in the workplace are directly liable for their own actions. However, if the University cannot demonstrate that they have taken 'all reasonable steps' to prevent the discrimination or harassment from occurring, then both the individual and the University can be jointly liable for the behaviour.

Referral to Police

(92) Some matters may also be considered an offence under criminal law and may (except where reporting is mandatory) be reported to the Police. They include (but are not limited to):

- a. Physical molestation or assault
- b. Indecent exposure and stalking
- c. Obscene communications (phone calls, letters, etc.)
- d. Racial or religious vilification
- e. Sexual assault
- f. Victimisation

Exceptions

(93) The legislation does allow some exceptions in respect of discrimination. For example:

- a. Religious and sex discrimination based on the genuine occupational requirements of a job may be permitted; and
- b. A person with a disability may be discriminated against if it can be demonstrated that the University would suffer an 'unjustifiable hardship' in trying to make adjustments to accommodate the needs of the person.

(94) The circumstances in which exceptions may apply are set out in the relevant legislation.

Performance Management

(95) Reasonable management action, carried out in a fair way, is not bullying (albeit some experiences can be uncomfortable for those involved). Managers have a right to direct the way work is carried out, to monitor the work and give feedback on performance. Examples of reasonable management action may include:

- a. Setting reasonable performance goals, standards and deadlines in consultation with staff;
- b. Deciding not to select someone for promotion, following a merit based process;
- c. Informing someone about unsatisfactory work performance;
- d. Informing someone about unacceptable behaviour;
- e. Implementing organisational changes or restructuring;
- f. Performance improvement processes; and
- g. Reasonable disciplinary action.

Support Person

(96) A staff member who is a party to a grievance has the right to have a support person present at meetings. If the staff member chooses not to have a support person the process will still continue.

Who May Be a Support Person

(97) A support person can be (other than a practicing solicitor or barrister) a union representative, friend, family

member or a work colleague. They are nominated by a staff member to provide support on their behalf, but who is not entitled to make representations or act as an advocate.

The Role of the Support Person

(98) The role of the support person is to provide professional and moral support to the staff concerned. He or she may also act as a witness or observer to the process.

(99) The support person should not disrupt the process, direct the process or otherwise interfere with the meeting. The support person is not there to advocate on behalf of the staff member.

(100) Should a support person attempt to intervene, direct the process or advocate on behalf of the staff, he or she should be warned that this contravenes the role of support person. If the support person persists, the support person may be asked to leave the meeting and the meeting may be terminated and rescheduled, with another support person present.

(101) It is not appropriate for meetings to be unreasonably delayed due to the unavailability of a staff member's support person. If this occurs, the staff member will be advised to nominate another support person.

(102) A support person should not have had any involvement in the incident being discussed.

Legislation

(103) Refer to the Associated Information page, where you will find a list of the most relevant Australian law relating to this topic. Note that the list of legislation is not comprehensive.

Responsibility

(104) If issues of unacceptable workplace behaviour arise in an area of responsibility of a manager, supervisor, leader etc. they should take all reasonable steps to deal with them promptly and to prevent a recurrence of the problem and should deal with complaints of unacceptable workplace behaviour in accordance with the relevant policies/procedures.

(105) Managers have the responsibility to:

- a. Monitor the work environment to ensure that acceptable standards of conduct are observed at all times;
- b. Intervene quickly and act fairly to resolve complaints and enforce workplace behavioural standards, making sure relevant parties are heard;
- c. Treat all complaints seriously and take immediate action to attempt to resolve the matter (acting responsibly and professionally at all times throughout a complaint resolution process);
- d. Monitor and address victimisation issues resulting from complaints;
- e. Model appropriate behaviour themselves and promote the [Code of Conduct](#), University values and this Policy;
- f. Refer a complaint to another officer if they do not feel that they are the best person to deal with the complaint (for example, if there is a conflict of interest or if the complaint is particularly complex or serious);
- g. Ensure decisions will be based on a thorough and unbiased consideration of all the facts and views expressed by all parties; and
- h. Seek advice from Employee Relations to assist in managing a complaint effectively.

(106) Staff have a responsibility to:

- a. Comply with the [Code of Conduct](#), University values and this Policy;
- b. Offer support to anyone who is the subject of unacceptable workplace behaviour and let them know where they can get help and advice (they should not, however, approach the respondent themselves); and

- c. Maintain complete confidentiality if they provide information during an investigation of a complaint, understanding that breaching confidentiality could result in disciplinary action being taken.

Assistance

External Assistance

(107) Staff have the right to seek assistance from an external body/authority (including their Union) at any stage. For example:

- a. Victorian Equal Opportunity and Human Rights Commission
- b. Victorian Ombudsman
- c. Fair Work Australia
- d. Fair Work Ombudsman
- e. Worksafe Victoria

Other Assistance

(108) There are people and resources available to assist or support staff and provide information, advice or appropriate referrals. Support options may include:

- a. Manager
- b. Human Resources
- c. Support person
- d. Union
- e. [Employee Assistance Program](#) (EAP) - Call 1300 OUR EAP (1300 687 327) to access EAP 24 hours, 7 days per week pager service

Section 5 - Definitions

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

(110) Further, for the purpose of this Policy and Procedure:

- a. Complaint: is defined as a work-related problem or condition which a staff member believes to be unfair, inequitable, discriminatory and/or creates an unsafe work environment and which is formalised in writing for the purpose of these Procedures.
- b. Complainant: is the person who makes the complaint/allegation.
- c. Equal opportunity: is ensuring that everyone has equal access to available employment and the workplace is free from unlawful discrimination and harassment.
- d. Fair Work Commission: is the national workplace relations tribunal.
- e. Liability: is where individuals/companies etc. are liable for the damage caused by their actions. Outcomes can include monetary damages, criminal offences and behaviour related actions.
- f. Malicious: is characterised by the intentionally harmful, spiteful act.
- g. 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;
- h. Personal relationship: is defined to include spouse, domestic partner, de facto, children, siblings, cousins, aunt, uncle, nephew, niece, parents, grandparents, relations of similar status by marriage or sexual relationships.
- i. Respondent: is the subject of the complaint/allegation, the person the complaint/allegation is about.
- j. Vexatious: is to cause or tend to cause annoyance, frustration or worry.
- k. Witness: is an individual who, being present personally sees or perceives a thing/event.
- l. Workplace: other than the immediate workplace (including campus), it also extends to work social functions, conferences and events either organised by the University or organised by external parties and sanctioned by the University to attend on behalf of the University.

Status and Details

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