

# Workplace Behaviours Policy

## Section 1 - Key Information

<b>Policy Type and Approval Body</b>	Administrative – Vice-Chancellor
<b>Accountable Executive – Policy</b>	Chief Operating Officer
<b>Responsible Manager – Policy</b>	Chief People Officer
<b>Review Date</b>	19 March 2028

## Section 2 - Purpose

(1) La Trobe University (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, and 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. This Policy also details the University's commitment to reducing the risk of harm in relation to alcohol and drug use.

(4) The Procedures provide guidance for understanding:

- what unacceptable workplace behaviour is;
- what to do if people witness or experience discrimination, harassment, bullying, victimisation, vilification and/or violence in the workplace;
- the legal obligations of the University and its representatives; and
- reducing the risk of harm which may arise from the use of alcohol or drugs. It details the University's expectations of staff while at work, or while undertaking business related activities, to ensure they can safely conduct their activities without risk to the health and safety of others and not cause damage to University resources.

## Section 3 - Scope

(5) 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).

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

(7) 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 complaint that they are also Staff at the University.

(8) The [Workplace Issue Resolution \(Staff\) Procedure](#) sets out the procedure for responding to Workplace Issues lodged in accordance with the [La Trobe University Enterprise Agreement 2023](#) (Enterprise Agreement). Workplace Issues that solely relate to unacceptable workplace behaviours will be handled in accordance with this Policy.

(9) Where conduct by a continuing or fixed-term staff member is identified that could be subject to misconduct or serious misconduct allegations, the matter must be handled in accordance with Clause 67 of the [Enterprise Agreement](#) or the staff member's contract of employment.

## Section 4 - Key Decisions

Key decisions/Responsibilities	Role
Reviews the findings and determines the outcome/s of an investigation of a complaint	Chief People Officer/ or nominee

## Section 5 - Policy Statement

### Workplace Entitlement

(10) Staff are entitled to:

- 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;
- the right to raise issues or to make an enquiry or complaint in a reasonable and respectful manner without being victimised;
- recruitment and selection decisions based on merit and not affected by discrimination; and
- reasonable flexibility in working arrangements, especially to accommodate family and carer responsibilities, disability, religion and culture.

(11) The University is committed to:

- providing and maintaining a healthy and safe environment;
- complying with legislation in relation to drugs and alcohol;
- minimising alcohol and drug-related harm to individuals and property;
- encouraging the responsible service and consumption of alcohol;
- providing support, counselling and access to support services for those affected by alcohol and drugs.

### University Commitment

(12) Behaviour must comply with this Policy, the [Code of Conduct](#) and the University's values/cultural qualities.

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

(14) 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. implement interim measures where relevant and/or reasonable to protect safety and wellbeing of staff and the integrity of an active investigation.
- g. provide a complaints process to allow an opportunity to resolve workplace behaviour issues in a timely and fair manner;
- h. 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)**

(15) 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 in connection with their work 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. sexual harassment of another staff member, student or other third parties
  - vii. bullying/hazing an individual or group
  - viii. placing the health and safety of staff, students or other third parties at risk
  - ix. adversely impacting on the wellbeing of staff or students as deemed by the University
  - x. causing damage to University property.
- c. to participate in workplace investigations where required;
- d. raise a complaint when they believe they have witnessed/experienced unacceptable workplace behaviour in accordance with this Policy and Procedure;
- e. comply with all relevant laws, policies and procedures.

(16) The University expects supervisors to:

- a. model appropriate behaviour themselves and promote the [Code of Conduct](#), University values/cultural qualities and this Policy and Procedure 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 this Policy and Procedure;

- 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**

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

(18) Any action taken in relation to unacceptable workplace behaviour will be managed under these Procedures and/or in accordance with the [Enterprise Agreement](#) or the staff member's contract of employment.

(19) 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.

(20) In the case of Alcohol or Drugs, should the University suspect/observe an impairment/inappropriate behaviour, the University may, at its prerogative, take any of the following actions (but not limited to):

- a. remove Staff from a campus or a University business activity;
- b. apply misconduct and serious misconduct procedures in accordance with the [Enterprise Agreement](#) or a staff member's contract of employment;
- c. offer to provide support, counselling or education;
- d. contact the Police or emergency services.

(21) Outcomes may include (but are not limited to):

- a. counselling;
- b. suspension pending an investigation;
- c. written warning;
- d. termination of employment.

# **Section 6 - Procedures**

## **Part A - Discrimination**

(22) 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**

(23) Direct discrimination is when someone is treated less favourably on the grounds of an attribute covered by the [Equal Opportunity Act 2010](#) regardless of the discriminator's motive and whether they are aware of the discrimination or consider the treatment less favourable.

### **Indirect Discrimination**

(24) 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**

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

unlawful discrimination.

## Legal Protections

(26) 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. Profession, trade or occupation
- n. Race
- o. Religious belief or activity
- p. Sex
- q. Sex characteristics
- r. Sexual orientation
- s. An expunged homosexual conviction
- t. A spent conviction
- u. Personal association (whether as a relative or otherwise) with a person who is identified by reference to any of the above attributes.

## Part B - Harassment

(27) 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

(28) 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 or sexually suggestive emails, text

messages or social media 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.

(29) 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.

(30) 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?"

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

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

## **Racial Harassment**

(33) 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.

## **Part C - Bullying**

(34) 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.

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

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

(37) 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.

(38) Bullying may also be discrimination if it is because of age, sex, pregnancy, race, disability, sexual orientation, religion or other protected attributes 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**

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

(40) 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.

(41) 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.

## **Intentional or Unintentional Bullying**

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

(43) 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.

## **Part D - Vilification**

(44) 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.

## **Part E - Victimisation**

(45) 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.

(46) 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.

(47) 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, [Code of Conduct](#) and/or [Enterprise Agreement](#).

(48) 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.

## **Part F - Occupational Violence**

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

(50) 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.

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

## **Part G - Personal Relationships**

(52) 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.

(53) 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.

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

(55) 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.

(56) 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.



## Part H - University Functions and Activities

(57) 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.

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

## Part I - Alcohol and Drugs

(59) Everyone in the workplace has a responsibility when it comes to health and safety. There are a range of factors that impact on a staff member's ability to work safely; alcohol and drugs are just one of them.

(60) Under Section 21 of the [Occupational Health and Safety Act 2004](#), the University has a duty of care to staff and they in turn are responsible for working in a manner that is not harmful to the health and safety of themselves or others at the University. Staff are obliged to present for work in a fit state, so that in carrying out normal work activities they do not:

- a. expose themselves, their colleagues, students or visitors to unnecessary risks;
- b. inhibit their ability to fulfil the requirements of their position;
- c. present a poor public image of the University;
- d. cause damage to University resources.

(61) The University will not tolerate unsafe, unwelcome or offensive behaviour caused by the irresponsible consumption of alcohol or drugs by staff members.

(62) When staff attend a business related event or are representing the University at an event hosted by a third party the following applies:

- a. staff must consume alcohol responsibly;
- b. staff must not become inebriated (drunk; intoxicated with alcohol to the point of impairment of physical and mental faculties);
- c. staff must uphold an appropriate standard of behaviour at all times and being inebriated is not an 'excuse' for misconduct;
- d. the restrictions set out previously in relation to the operation of vehicles and machinery continue to apply;
- e. staff should consider their options to ensure a safe means of transport to and from such events.

(63) Should the University suspect/observe an impairment/inappropriate behaviour, the University may, at its prerogative, remove staff from a campus or University business activity.

(64) Staff are responsible for their own behaviour, their obligation to act responsibly, and not be impaired by alcohol or drugs while at the workplace.

(65) Staff must not consume, possess, solicit, sell, distribute, manufacture/produce illegal drugs on campus or in any University work or study environment.

(66) Staff who operate vehicles, equipment, machinery ('resources') or work within laboratories must not be impaired by or have consumed any alcohol/illicit drugs or be impaired by legal drugs whilst operating the resources or working within laboratories.

(67) Staff driving a University motor vehicle must:

- a. not have consumed alcohol (staff must have a BAC level of 0 blood alcohol concentration)
- b. not have consumed illicit drugs or be impaired by legal drugs
- c. not smoke in a University motor vehicle

(68) Staff who have breached the policy will be held accountable for their actions and may face disciplinary action in accordance with the [Enterprise Agreement](#) or their contract of employment.

(69) The University may require a staff member to present a valid medical certification confirming the staff member is fit to undertake the requirements of their position prior to their return to duties.

(70) Every effort should be made to protect the staff member's privacy at work and to maintain confidentiality.

## **Staff on Call**

(71) If a staff member is "on call", they are required to be available when called and to meet the requirements of this Policy and Procedure.

(72) If a staff member is "called out" unexpectedly when not on call and the staff member suspects they are or may be impaired, they must inform the supervisor that this may be the case and are unavailable. Disclosing this to the supervisor is not a breach of the Policy or Procedure.

(73) 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.

(74) Staff are not in breach of this Policy as a result of taking prescription drugs/medications prescribed to them, however, should taking a prescription drug/medication result in impaired behaviour which creates a risk to the health and safety of others and/or causes damage to the University resources, this will be managed accordingly. Staff should discuss any prescription or over the counter medication that may have an impairing effect with their supervisor to ensure everyone's safety.

## **Part J - Use of Equipment**

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

(76) More particularly, Staff 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.

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

(78) A condition of having a staff identification card is understanding and agreeing that the card is not transferable. A staff identification card can only be used by the person named on the card and cannot be loaned or shared with another person.

## Part K - Staff Actions - What to Do?

(79) If a person believes they have experienced unacceptable behaviour or if they have been a witness to such behaviour, the University strongly encourages them 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.

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

### Witnessing Unacceptable Behaviour

(81) 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

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

### The Decision to Make a Complaint

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

(84) 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

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

- a. providing timely responses;
- b. staff being dealt with sensitively;
- c. all parties are afforded fairness and impartiality;
- d. support provided for all parties;
- e. the resolution process is victimisation free; and
- f. the principles of natural justice and procedural fairness apply.

## Responding to a Complaint

(86) 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.

(87) The University takes all complaints very seriously. Where a complaint has been made, it will be reviewed and, if proven, appropriate disciplinary action may be taken in accordance with the requirements that apply to the staff member's mode of employment. We will take all reasonable steps to ensure that parties involved in the complaint will not be victimised or treated unfairly.

(88) Complaints that are vexatious or malicious may result in disciplinary action against the complainant.

## Complaint Process

(89) It is recommended where appropriate 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.

(90) Staff should consider lodging a formal complaint where:

- a. the staff member 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 member and continues without regard to the staff member's expressed wishes;
- d. raising the issue with the supervisor 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.

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

## Process to Lodge a Complaint

(92) In the first instance, staff should submit their complaint, to Safer Community via the form available on the [Safer Community intranet](#).

(93) Where appropriate Safer Community will refer the complaint to the Chief People Officer or nominee.

## Interim Measures

(94) Upon receiving a complaint, People & Culture will determine the need for any measures to protect the safety and wellbeing of all parties, and where relevant, protect the integrity of any investigation. Such interim measures may include a change in reporting lines, an alternative work location or work arrangement.

(95) Principles of procedural fairness will apply wherever practicable, and the complainant and respondent will be advised of any interim measures that will or have been put in place by the Chief People Officer, or delegate.

(96) The Complainant or Respondent may request interim measures be put in place by writing to the Chief People Officer, or their delegate. Such requests will be considered by the Chief People Officer and where reasonable and practicable will be accommodated.

(97) Interim measures may be considered regardless of whether an individual chooses to make a formal complaint to

the University. The Chief People Officer or their delegate will determine whether interim measures are responsible and should be implemented.

(98) Interim measures are not a penalty or sanction and do not indicate the University has concluded that a complaint is substantiated or a breach of University policy has occurred. An investigation does not need to be completed before interim measures are put in place.

## Investigating Complaints

(99) To ensure consistency and fairness, the below process is usually followed where a decision to investigate a complaint has been made by Human Resources (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.

(100) Notwithstanding the above, if at any stage during the investigation process it is identified that continuing or fixed-term staff member has allegedly engaged in misconduct or serious misconduct, then the matter must proceed in accordance with misconduct and serious misconduct procedures outlined in clause 67 of the [Enterprise Agreement](#), or the staff member's contract of employment.

## Staff Who Are Also Students

(101) The person managing a complaint (case manager) lodged by a staff member who is also a student will determine whether this Policy or the [Student Conduct 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 relevant to the subject of the complaint.

(102) The case manager 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.

(103) If a complaint is lodged by or is about a staff member who is also a student, People & Culture will work collaboratively with the Student Conduct and Investigations Office in resolving the complaint.

## Potential Outcomes

(104) 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 member 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;

- e. whether there have been any prior incidents or warnings;
- f. whether misconduct or serious misconduct has been substantiated.

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

<b>No Action</b>	If the initial assessment and/or investigation identifies that the complaint is not substantiated.
<b>Coaching</b>	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.
<b>Restatement of Expected Behaviours</b>	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.
<b>Disciplinary Action</b>	If the staff member commits a serious breach of policy/procedure and/or misconduct or serious misconduct is established, the University can issue a formal censure or counselling in conjunction with a written warning; withhold an increment, demote by one or more classifications or increments, transfer to another position with pay appropriate to the position; suspend with or without pay, physical relocation at the staff member's campus location having regard to the nature of the conduct, suspension of access to certain University locations or equipment, and termination of employment.
<b>Termination of Employment</b>	Means termination of employment at the initiative of the University in accordance with relevant clauses of the <a href="#">Enterprise Agreement</a> and/or the staff member's contractual terms.

(106) For outcomes of complaints relating to staff employed on a Senior Staff Contract, People & Culture will also refer to the terms within the staff member's employment contract for performance, discipline and/or termination.

(107) Following the resolution of a complaint lodged by or about a staff member who is also a student, a staff member from People & Culture may refer the matter to the Director, Student Life for further review in accordance with the [Student Conduct Management Policy](#) and relevant policies.

## Obligation to Act and Investigations

(108) 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.

## Part L - Legal Issues

### False, Malicious and Vexatious Claims

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

### Staff Confidentiality

(110) 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.

(111) 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.

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

## **Recording Conversations**

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

## **Legal Obligations**

(114) 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.

(115) 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.

(116) 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.

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

## **Obligation to Act**

(118) 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**

(119) 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**

(120) 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**

(121) 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.

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

## **Part M - Performance Management**

(123) Reasonable management action, carried out in a fair way, is not bullying (albeit some experiences can be uncomfortable for those involved). Supervisors 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
- g. reasonable disciplinary action

## **Part N - Representative/Support Person**

(124) A staff member who is a party to a complaint is entitled to have a Representative and/or Support Person present at meetings and staff should be reminded of this entitlement upon becoming involved in the complaint process. The process will continue if the staff member chooses not to have a Representative and/or Support Person.

(125) It is not appropriate for meetings to be unreasonably delayed due to the unavailability of a staff member's Representative and/or Support Person. If this occurs, the staff member may be advised to nominate another Representative and/or Support Person.

(126) A Representative/Support Person who is a staff member of the University must comply with the Staff Confidentiality requirements outlined above in Part L of these Procedures.

### **Who May Be a Representative or Support Person**

(127) A Representative can be a friend, colleague (but this person cannot be a practicing solicitor or barrister if [Enterprise Agreement](#) procedures apply), or Union which may be the NTEU.

(128) A Support Person can be any person nominated by the staff member to provide support during meetings.

(129) A Representative/Support Person must not present a conflict of interest and should not have any involvement in the incident being discussed.

(130) A Representative and Support Person perform different roles which are outlined below. The exception being that a Representative may also act as a Support Person.

### **The Role of the Representative**

(131) The role of the Representative is to provide professional and moral support to the staff concerned. They may also act as an observer of the process.



(132) The Representative may take on an advocacy role and can be nominated to speak on behalf of the staff member.

(133) Should a Representative attempt to excessively disrupt or direct the process they should be warned that this contravenes the role of a Representative. If the Representative persists they may be asked to leave the meeting and the meeting may be rescheduled to a time where a different Representative can attend.

## **The Role of the Support Person**

(134) A Support Person is someone who attends a meeting to provide moral and emotional support for a staff member. This may include taking notes so the staff member can focus on what is being discussed.

(135) A Support Person is not an advocate and does not engage with the meeting, answer questions or speak on behalf of the staff member.

(136) If the Support Person is disrupting or derailing a meeting, they may be reminded of the requirements of a Support Person. If the Support Person persists, they may be asked to leave the meeting and the meeting may be rescheduled to a time when a different Support Person can attend.

## **Part O - Responsibility**

(137) If issues of unacceptable workplace behaviour arise in an area of responsibility of a supervisor or 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.

(138) Supervisors 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/cultural 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;
- h. seek advice from Workplace Relations to assist in managing a complaint effectively.

(139) 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);
- 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.

## Part P - Assistance

### External Assistance

(140) 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. Fair Work Commission
- c. Fair Work Ombudsman
- d. [WorkSafe Victoria](#)
- e. Victorian Ombudsman

### Other Assistance

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

- a. Supervisor
- b. People & Culture
- c. Safer Community for Staff
- d. Staff Wellbeing Connect
- e. Support person
- f. Safer Community for Students
- g. Representative/Support Person
- h. Union
- i. [Employee Assistance Program](#) (EAP) – Call 1300 OUR EAP (1300 687 327) to access EAP 24 hours, 7 days per week pager service

## Section 7 - Definitions

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

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

- a. Alcohol: is any liquid substance that contains measurable quantities of alcohol.
- b. 'At risk' behaviour: is an employee's behaviour is deemed to be at risk if there is an observable change in work performance where the behaviour will or may result in health and safety risks.
- c. Blood Alcohol Concentration (BAC): refers to the amount of alcohol present in the bloodstream. A BAC of 0.05% means that there is 0.05 grams of alcohol in every 100 millilitres of blood.
- d. 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.
- e. Complainant: is the person who makes the complaint/allegation.
- f. Contractor is a person employed either directly or indirectly by a company contracted to the University to

- provide equipment and/or services to the University.
- g. Drugs refer to all legal and illegal substances, including performance and image enhancing drugs (PIEDs), tobacco, pharmaceutical substances, and illicit drugs and 'new psychoactive substances' or 'synthetic' drugs.
  - h. Equal opportunity: is ensuring that everyone has equal access to available employment and the workplace is free from unlawful discrimination and harassment.
  - i. Fair Work Commission: is the national workplace relations tribunal.
  - j. Illicit drugs: are any substance classified by the Therapeutic Goods Administration (a division of the Commonwealth Department of Health & Aged Care) which is illegal to use or prescribe.
  - k. Impairment: is where an individual who is deemed to be adversely affected and unfit to perform their duties and responsibilities safely and productively. It is the 'impairment' itself that is the key concern for safety and health, as that is what is hazardous, from whichever cause.
  - l. Incident: is an undesirable or unplanned event that results in, or had the potential to result in, damage to business assets (people, plant, equipment) or interrupts business operations (process loss).
  - m. Inebriated: is drunk or intoxicated with alcohol to the point of impairment of physical and mental faculties.
  - n. Injury: is damage, visible or non-visible, to a person that occurs or results in an occupational disease or illness. A medical injury is an injury requiring treatment by a registered medical practitioner.
  - o. 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.
  - p. Malicious: is characterised by the intentionally harmful, spiteful act.
  - q. 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;
  - r. Misconduct and Serious Misconduct: is defined under clause 67 of the [Enterprise Agreement](#) which applies to continuing or fixed-term staff covered by clause 67 of the [Enterprise Agreement](#). Findings of misconduct or serious conduct may result in disciplinary action, including termination of employment. For Staff not covered by clause 67 of the [Enterprise Agreement](#), Misconduct and Serious Misconduct is defined by the [Fair Work Act](#).
  - s. Personal relationship: is defined to include spouse, domestic partner, de facto, children, siblings, cousins, parents, sibling or a parent, child of a sibling, grandparents, relations of similar status by marriage or sexual relationships.
  - t. Psychoactive substances: are new psychoactive substances (NPS) are a range of drugs that have been designed to mimic established illicit drugs, such as cannabis, cocaine, ecstasy and LSD.
  - u. Respondent: is the subject of the complaint/allegation, the person the complaint/allegation is about.
  - v. Staff: are deemed to include those employed under the 'Modes of Employment' within the [Enterprise Agreement](#) and, for the purpose of the policy, associates of the University which includes contractors, agency staff, conjoints, volunteers, honoraries, Council members, visiting appointments and other professional personnel.
  - w. Synthetic drugs: are products containing chemical substances artificially developed to mimic the effects of illegal drugs like cannabis, cocaine and methamphetamine.
  - x. Under the influence: is an individual who is deemed by the University to affected and unfit to perform their duties and responsibilities safely and productively.
  - y. University 'campus', site or premises includes all land, property, buildings, structures, installations, production

facilities or vehicles owned by, controlled by, or under contract or lease to La Trobe.

- z. University business activities: include, but are not limited to, conferences, seminars, work organised social events (e.g. Christmas events), business partner sponsored/arranged events such as business lunch or sporting event attendance, informal social events such as a lunch or after work drinks.
- aa. University property: includes land, property, buildings, structures, installations, production facilities, vehicles, machinery/equipment owned by, controlled by, or under contract or lease to La Trobe.
- ab. University resources: includes land, property, buildings, structures, installations, production facilities, vehicles, machinery/equipment owned by, controlled by, or under contract or lease to La Trobe.
- ac. University Vehicle: is a La Trobe vehicle which is owned, leased, hired by La Trobe and used by either a staff member or contractor of La Trobe during working hours. A vehicle is not deemed to be a La Trobe vehicle if it forms part of an employment/contract salary package and is being used for private purposes on which FBT is paid by the employee/contractor.
- ad. Vexatious: is to cause or tend to cause annoyance, frustration or worry.
- ae. Witness: is an individual who, being present personally sees or perceives a thing/event.
- af. 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.

## **Section 8 - Authority and Associated Information**

(144) This Policy is made under the [La Trobe University Act 2009](#).

## Status and Details

<b>Status</b>	Current
<b>Effective Date</b>	19th March 2025
<b>Review Date</b>	19th March 2028
<b>Approval Authority</b>	Vice-Chancellor
<b>Approval Date</b>	19th March 2025
<b>Expiry Date</b>	Not Applicable
<b>Responsible Manager - Policy</b>	Regan Sterry Chief People Officer
<b>Enquiries Contact</b>	People & Culture +61 3 9479 1234

## Glossary Terms and Definitions

**"staff"** - Staff means any person employed by the University as per the definition in the La Trobe University Act 2009 (Vic).