

# **POLICIES AND PROCEDURES**

## **Discrimination and Harassment Policy**

Designated Officer: Deputy Vice-Chancellor

Council Approval: C02/88, 26 November 2002

Last Amended:

Related Policies: Equal Opportunity Policy  
Code of Conduct for University officers and employees  
Enterprise Bargaining Agreement  
Student Conduct and Discipline Policy  
Student Grievance Policy  
Recruitment and Selection Policy  
Workplace Health & Safety Policy

### **Policy**

The University is committed to fostering the right of individuals to be free from discrimination and harassment while engaged in activities undertaken as part of their study, employment, or other forms of association with the University of the Sunshine Coast. All members of the University community will be treated with dignity, courtesy and respect in accordance with the codes of conduct for staff and students. Discrimination and harassment will not be tolerated under any circumstances and the University will take all reasonable steps to eliminate discrimination and harassment of or by staff, students, visitors and other members of the University community.

The University will use educative approaches for the prevention of discrimination and harassment, ensuring staff and students know their rights and responsibilities, and to encourage the reporting of behaviour that breaches this policy. Should a complaint of harassment or discrimination arise, the University will sensitively facilitate timely and appropriate action through informal and/or formal conciliatory procedural options.

### **Definitions**

'Conciliation' is the process through which the parties involved in any allegation, with assistance from a neutral person (a conciliator), discuss the issues in order to develop options and consider alternatives with the goal of reaching a consensual agreement or outcome.

'Conciliator' is a trained person appointed by a Responsible Officer to conciliate between the parties in a non-judgemental and independent manner. In some circumstances, an external person may be appointed as a conciliator.

'Discrimination' is to treat an individual less favourably because of an attribute or to impose unreasonable terms or conditions with which individuals with a particular

attribute are unable to comply. Attributes are: parental status, pregnancy, religion, political belief or activity, marital status, sex, lawful sexual activity, age, race, impairment, trade union activity, or association with an individual having these attributes.

'Grievance' is a concern or complaint about an act, behaviour, omission, situation or decision, which an individual believes is unfair or unjustified.

'Harassment', including workplace harassment, is repeated behaviour, other than behaviour that is sexual harassment, that:

- a. is directed at an individual or group; and
- b. is offensive, intimidating, humiliating or threatening; and
- c. is unwelcome and unsolicited; and
- d. a reasonable person would consider to be offensive, intimidating, humiliating or threatening for the individual or group (*Report of the Queensland Government Workplace Bullying Taskforce - Creating Safe and Fair Workplaces: Strategies to Address Workplace Harassment in Queensland*, March 2002, p.33)

'Bullying', defined as workplace harassment in the *Report of the Queensland Government Workplace Bullying Taskforce - Creating Safe and Fair Workplaces: Strategies to Address Workplace Harassment in Queensland* March 2002, is unacceptable at the University. Bullying may consist of one or a variety of behaviours and actions that are unreasonable and offends or harms a person. Bullying may involve:

- behaviour which demeans, humiliates or intimidates either individuals or groups such as rude, foul and abusive language and taunts, including reflections on body size and shape (physical appearance);
- the less favourable treatment of a person by another, beyond that which may be considered reasonable and appropriate practice such as constant unjustified criticisms;
- unwelcome and unreasonable behaviour that creates a hostile, uncomfortable, offensive or 'charged' atmosphere leading to stress;
- misuse of relative and / or assumed power such as isolating or excluding persons from various activities, assigning meaningless tasks and/or undermining work performance.

Bullying is not a simple abuse of power from supervisors to subordinate employees: for example, employees or students can bully their supervisors, and bullying can occur between members of an ostensibly equal group.

'Investigator' is a person appointed by the Deputy Vice-Chancellor to investigate a formal complaint. In some circumstances, an external person may be appointed as an investigator.

'Natural Justice' provides that all parties must be given the opportunity to present their case, be fully informed about allegations and decisions made and have the right of representation by another person. A decision-maker in relation to the grievance should have no personal interest in the matter and should be unbiased in their decisions.

'Respondent' is the person(s) against whom a complaint is made.

'Responsible Officer' is the Manager, Human Resources for complaints by or against University staff members, visitors or contractors and the Director, Student Affairs for complaints by or against students.

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

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

'Support Officers' are identified members of the University community, trained as required to provide support and advice on options for resolving harassment and discrimination complaints. They will not investigate or conciliate a complaint.

## **Discrimination and Harassment Procedures**

Approved by: Deputy Vice-Chancellor

Date Approved:

Related policies:       Equal Opportunity Policy  
                                  Code of Conduct for University officers and employees  
                                  Enterprise Bargaining Agreement  
                                  Student Conduct and Discipline Policy  
                                  Student Grievance Policy  
                                  Recruitment and Selection policy  
                                  Workplace Health & Safety policy

### **Procedures**

These procedures apply to staff and students engaged in all activities central to, or reasonably connected with, their role at the University. This includes field trips, fieldwork and social functions directly related to the activities of the University.

These procedures are designed to ensure that all complaints are effectively dealt with in a sensitive, timely and confidential manner, and in accordance with the principles of natural justice.

There are several options for dealing with complaints of discrimination and harassment. Multiple options may be appropriate in some circumstances, and procedures may commence in any order or at any stage. Individuals should choose the option with which they feel most comfortable. At any time, an individual may contact their supervisor, University counselling staff or Human Resource staff for assistance. Appendix 1 contains a summary chart of the options.

## 1.1 Informal Procedures

- 1.1.1 Option 1: Deal with the matter individually: An individual may attempt to resolve the matter personally. In this option, an individual will complain or object to the behaviour or action directly with the respondent (s) involved, making it clear that the behaviour or action is offensive and unacceptable. This may be done in writing, eg. by email, or directly in person, in which case it is recommended that the complainant keep a record of the discussion.
- 1.1.2 Option 2: Deal with the matter individually with advice from a Support Officer and/or Supervisor: Contact a Support Officer or Supervisor, who can provide information about the complainant's rights and responsibilities and suggest options on how best to deal with the situation.
- 1.1.3 Option 3: Conciliation: Contact the Responsible Officer directly. The Responsible Officer may assign a conciliator. The Responsible Officer or the conciliator will approach the respondent and detail the complaint. All parties will be given the opportunity to state their case and how they would see the situation being resolved. The conciliator will assist the parties to attempt to reach a mutually acceptable solution. Depending on the circumstances, the identity of the complainant(s) will not be disclosed to the respondent unless agreed by the complainant(s).

## 1.2 Formal Procedures

- 1.2.1 Option 4: Formal Complaint: A formal complaint may be made in writing, by the complainant, to the Deputy Vice-Chancellor.
- a) The complaint must contain sufficient details for consideration of any allegations by the Deputy Vice-Chancellor. In cases where the complaint is considered lacking in sufficient detail, the complainant may be advised to contact a Support Officer or interpreter for further assistance.
  - b) A formal complaint would normally be made within 12 months of the last occurrence of the alleged discrimination or harassment.

- c) The Deputy Vice-Chancellor will acknowledge receipt of the written complaint within 5 working days. A copy of the written complaint will be given to the respondent.
- d) The Deputy Vice-Chancellor may establish an investigation to be conducted by a suitable person (the Investigator) unless there are reasonable grounds for believing that the complaint is ill founded. The Investigator will have had no former involvement in the complaint and they will have access to all persons and information they consider relevant, including the respondent(s) to the complaint.
- e) If the Deputy Vice-Chancellor decides that the complaint does not constitute a breach of the University's Discrimination and Harassment Policy, the Deputy Vice-Chancellor will inform the complainant in writing that no further action will be taken and the reason(s) for the decision.
- f) If the Deputy Vice-Chancellor decides that the complaint does constitute a breach of the University's Discrimination and Harassment Policy, the Deputy Vice-Chancellor may commence misconduct or serious misconduct proceedings as provided for under the University's Enterprise Bargaining Agreement or University Student Conduct & Discipline policy.
- g) Should a formal complaint be made before the informal procedures are followed, the Deputy Vice-Chancellor may refer the complaint to the Responsible Officer to try to resolve the matter informally.

1.2.2 Option 5: Complaint to an External Agency: The University recognises an individual's right to refer a complaint to a relevant external agency at any time. External agencies may include the Police, Australian Industrial Relations Commission, Human Rights and Equal Opportunity Commission, Queensland Anti-Discrimination Commission, or relevant staff and student unions or associations. These actions are outside the scope of the University Complaint Procedures.

### 1.3 Respondent Support

The respondent to a formal or informal complaint of discrimination or harassment can seek assistance from the appropriate Responsible Officer.

### 1.4 Record Keeping

For options 2 and 3, a confidential 'Incident Report' must be completed by Support Officers, Responsible Officers or Conciliators for all complaints. An Incident Report will not include any identifying material, but will include the status, broad area of employment or study, as appropriate, of the complainant and respondent, as well as the nature of the complaint and the action taken.

In the case of Option 4, a formal complaint, the finding, the action taken and all other documentation (including any tape recordings) relating to the complaint will be kept in a confidential file with access restricted to persons specified by the Deputy Vice-Chancellor and Responsible Officers. All documents will be held in accordance

with the University's records policies. If a complaint is subsequently lodged with an external body, records may need to be accessed in order to demonstrate that reasonable steps were taken to deal with matter.

### 1.5 Confidentiality

It is essential to keep confidential all information about alleged harassment and discrimination before, during and after the complaint resolution process. This is to ensure fair treatment and process, to protect the complainant(s) and respondent(s), to minimise the risk of victimisation and to avoid defamation proceedings. For these reasons, only those directly and legitimately involved in the resolution process should be informed about the details of a complaint and only then with the complainant's consent. In the event of a breach of confidentiality, the matter will be investigated by the Deputy Vice-Chancellor and action taken as appropriate.

### 1.6 Defamation

Defamation is the publication of a statement about a person, which causes that person's reputation with other people to be lowered, or causes them to be shunned, avoided or brought into ridicule. An accusation of harassment or discrimination can be potentially defamatory if confidentiality is not observed and an individual's reputation is damaged.

It is not defamatory for an individual to confront an alleged harasser directly (either in person or by mail) to alert them that their behaviour is unwelcome, nor is it defamatory to make a complaint to a person who has a legitimate interest in knowing about an incident in order to seek redress under these procedures. Information provided in a complaint may be subject to disclosure resulting from an application made under the Freedom of Information Act (Qld) 1992. University complaint procedures may protect against defamation under the laws relating to defamation. The risk of defamation can be minimised if a complaint is handled by as few people as possible and confidentiality is strictly observed. Protection from a defamation action may be lost if the complaint is false, or is made in bad faith and is motivated by malice, i.e. made solely or largely with the intention of causing harm to the respondent.

### **Victimisation**

Victimisation is the imposition of unjust penalties or taking unjust detrimental action against a person who reasonably asserts their own or another person's rights under these procedures, has made or proposes to make a complaint, and/or appears or proposes to appear as a witness for a formal investigation. Victimisation of any person involved in a complaint is unacceptable and may constitute an infringement of the codes of conduct for staff and students.

### 1.7 Vexatious Complaints

Vexatious complaints are those that are false or are made in bad faith and are motivated by malice, for example made solely or largely with the intention of causing harm to the respondent. Protection for a complainant from a defamation action may be lost where a complaint is found to be vexatious. Further it may constitute an infringement of the codes of conduct for staff and students and the University may

commence misconduct or serious misconduct proceedings as provided for under the University's Enterprise Bargaining Agreement or University Student Conduct & Discipline policy.

## 1.8 Implementation, Monitoring and Evaluation

**Implementation:** An essential element in preventing discrimination and harassment involves raising awareness amongst the University community of their rights and responsibilities under the University's Discrimination and Harassment Policy and Complaint Procedures.

The Responsible Officers will perform an educative role in the elimination of discrimination and harassment and take action to implement this Policy and Procedures. This includes the selection and training of Support Officers and Conciliators as required, the development and distribution of publicity material to the University community and the arrangement of awareness raising programs and in the provision of training for staff and students on what constitutes harassment and discrimination.

Names, locations and contact details for Support Officers will be widely publicised to all staff and students via the Staff and Student Intranets, the internal telephone directory and publicity material.

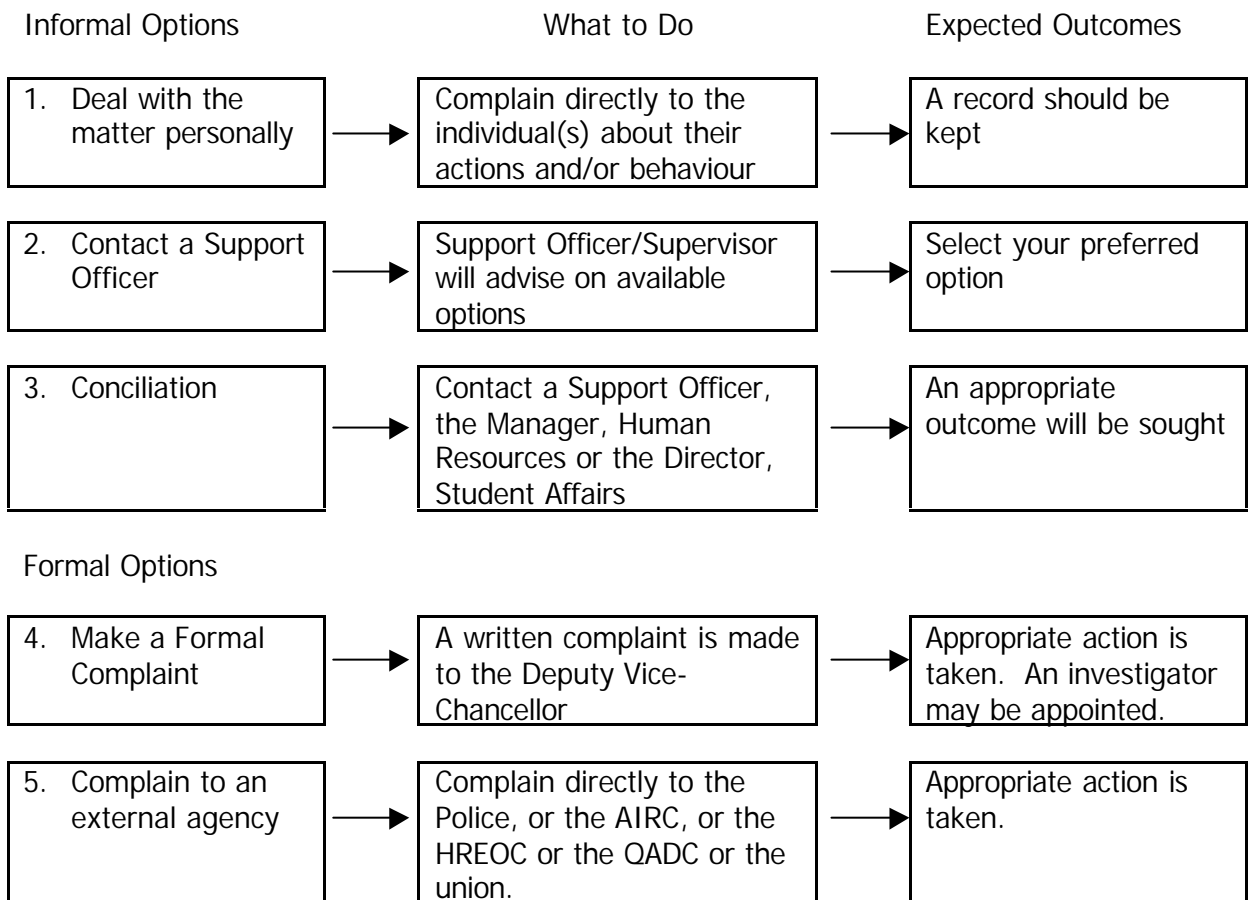
**Responsibilities:** All staff and students are responsible for ensuring that they cooperate in the maintenance of a work and study environment which is free from harassment and discrimination. Supervisors have a further responsibility to ensure that, when an instance of harassment or discrimination is brought to their attention, they take appropriate action to remedy the problem expeditiously. Such action may include referral to the Responsible Officer or a Support Officer for advice and assistance.

**Monitoring:** A confidential 'Incident Report' must be completed by Support Officers for all complaints. An Incident Report (refer Appendix 2) will not include any identifying material, but will include the status, broad area of employment or study, as appropriate, of the complainant and respondent, as well as the nature of the complaint and the action taken.

Incident Reports will be monitored by the Responsible Officer and will be used to report annually to the University's Student Equity and Equal Opportunity Committees, the Deputy Vice-Chancellor, Vice-Chancellor and University Council on the operation of the University's policy and recommendations for any appropriate changes.

## Appendix 1

### Summary of Procedural Options for Complaints





**Appendix 2**  
**STRICTLY CONFIDENTIAL**

**Incident Report**

**OF HARASSMENT, BULLYING & DISCRIMINATION**  
**STATISTICAL DATA COLLECTION SHEET**

Note: No identifying information is to be recorded.

Date of initial incident/complaint: ...../...../.....

Cost Centre/Faculty

.....

Nature of Complaint: (Please tick boxes as applicable)

Physical       Verbal       Non-Verbal       Other

.....

	Sex	Status	
Person raising the complaint (complainant)	<input type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> Employee <input type="checkbox"/> Full time <input type="checkbox"/> Casual	<input type="checkbox"/> Student <input type="checkbox"/> Part time <input type="checkbox"/> Other
Person alleged to have caused the complaint or incident (respondent)	<input type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> Employee <input type="checkbox"/> Full time <input type="checkbox"/> Casual	<input type="checkbox"/> Student <input type="checkbox"/> Part time <input type="checkbox"/> Other

Brief description of incident:

Action taken/resolution:

Other comments:

Forward to the Manager, Human Resources for employee related complaints or the Director, Student Affairs for student related complaints.