

Discrimination and Harassment Complaint Resolution Schedule

1 Purpose

PLEASE NOTE: All human resource management policy instruments are currently under review to ensure alignment with the new Enterprise Agreement. Contact the People Portfolio for more information.

To support the rights of Students and Employees to achieve their full potential free from Discrimination, Harassment, Victimisation and Vilification through a robust set of Procedures for preventing and resolving Complaints of this nature.

2 Scope

This schedule must be read in conjunction with the Discrimination, Bullying and Harassment Complaints Against Employees Procedure and is subordinate to it.

3 Schedule

This schedule must be used to resolve concerns and Complaints of Discrimination, Harassment (excluding Workplace Bullying and Harassment), Vilification or Victimisation made against a University Employee on the basis of one or more of the following attributes from the *Anti-Discrimination Act 1991*:

- sex
- relationship status
- parental status
- race
- religious belief or activity
- political belief or activity
- impairment
- trade union activity
- lawful sexual activity

- pregnancy
- breastfeeding
- family responsibilities
- gender identity
- sexuality
- age
- or an association with, or relation to, a person identified on the basis of any of the above attributes.

3.1 Resolution process

3.1.1 Stage 1: Initial advice

Employees are encouraged, in the first instance, to discuss concerns and Complaints in relation to Discrimination, Harassment, Victimisation and Vilification with their immediate Supervisor or with their Supervisor's Manager, and to attempt to resolve them informally, where appropriate.

Where an Employee does not wish to raise concerns with their Supervisor, they should contact the appropriate Senior People Partner for advice on the options available to support resolution of their concerns.

The individual is able to make an informed choice about further action.

3.1.2 Stage 2: further advice and assistance

Following Stage 1, an Employee may request that the matter be dealt with through an independent third party Mediation process, where appropriate, and where both the Complainant and the Respondent agree to participate in good faith in the Mediation process.

Where Mediation is requested, and agreed between the parties, the People Portfolio will liaise with the individuals to identify an acceptable Mediator. The purpose of the Mediation will be to assist the individuals to reach an agreed solution to the matter with a view to enabling them to continue to work in a manner acceptable to both.

Once the request for Mediation has been received, the Respondent will be approached by the People Portfolio with an invitation to attend a confidential Mediation session. They will receive Information about the Procedure of the Mediation, and a written outline of the matters to be discussed at the Mediation. At least one week's Notice will be provided to the Respondent of a Mediation.

Each individual will be advised that they may be accompanied by a Nominated Representative during the Mediation process.

Mediators should keep sufficient confidential notes as necessary to conduct the Mediation process. If the Mediation continues over a period of time, the file should be kept locked in a secure place within the People Portfolio and when finalised, all notes will be provided to the People Portfolio. The file will include the names of the persons participating in the Mediation and the dates of all meetings.

No other records of the Mediation process will be kept unless it forms part of a written agreement. If a confidential written agreement is the outcome of Mediation, the individuals may each retain a copy and one is kept in the secured file by the People Portfolio.

If Mediation is unsuccessful in resolving the matter, the Complainant may proceed to Stage 3: Investigation.

3.1.3 Stage 3: Investigation

Where a Mediation process does not result in resolution of the matter, or where Mediation is not seen as an appropriate step in resolving the matter, and if the Complainant wishes to pursue the matter further, a Formal Complaint may be lodged in writing to the Chief People Officer. There is an expectation that a Complainant will have tried to resolve the allegations informally in the first instance unless they can show that it would be inappropriate to do so.

The Formal Complaint must contain sufficient details to establish that the Complaint has substance and is not frivolous or vexatious. The Formal Complaint should also particularise what stages have been taken to resolve the matter informally.

All Complaints will be dealt with on merit. However, if any Complaint is found to be frivolous or vexatious the University may take action in accordance with section 3.2. A Complaint made in good faith is not a vexatious Complaint, even if the Complaint is eventually not substantiated.

Where a Complaint is not properly founded or unsubstantiated then no further action will be taken. The Chief People Officer will advise the Complainant and Respondent of this Decision.

Where it is established that the Complaint is properly founded, the Chief People Officer will initiate an Investigation.

The Chief People Officer will provide the Respondent with a copy of the Formal Complaint as soon as practicable. The Respondent will be given the opportunity to respond to the Complaint within 10 working days, where practicable.

The Chief People Officer will appoint a suitable person, who may be external to the University, to conduct an Investigation.

The person conducting the Investigation will act expeditiously and will have access to all persons and relevant Information to fully investigate the matter, consistent with the principles of natural justice. The Investigation may entail gathering evidence, interviewing the Complainant

and the Respondent separately, and interviewing other individuals.

The Complainant and Respondent may be accompanied by a Nominated Representative.

Confidentiality will be respected and maintained at all times by all parties to the Investigation process, within the constraints of fully investigating the Complaint, consistent with the principles of natural justice and procedural fairness.

All parties involved in an Investigation, including witnesses, are required to participate in good faith and comply with all reasonable requests necessary to complete the Investigation.

The outcomes of the Investigation will be forwarded to the Chief People Officer for consideration. The Chief People Officer will review the outcomes and any recommendations made by the investigator and commence appropriate action to resolve the Complaint. This may include the initiation of Disciplinary Action against the Employee.

The Chief People Officer will advise both the Complainant and the Respondent of the action, if any, to be taken.

The University will take all reasonable steps to ensure that the Complainant will not be subject to any adverse outcomes as a result of making the Complaint.

3.2 Disciplinary Action

Where Discrimination or Harassment is found to have occurred, which may constitute misconduct or serious misconduct, Disciplinary Action may be commenced.

Where Disciplinary Action is recommended, the Chief People Officer will advise the Vice-Chancellor who, on the basis of the findings, will determine whether or not Disciplinary Action should be commenced against the person(s) subject to the findings.

Where it is determined that Disciplinary Action should commence, the process of Clause 33 Disciplinary Action and Clause 34 Disciplinary Action for Misconduct or Serious Misconduct of the Enterprise Agreement, or the provisions of any other relevant contract of employment, will apply.

The Vice-Chancellor will provide written advice of the Decision to both the Complainant and the individual(s) against whom the Complaint was made.

The University may take action against frivolous or vexatious Complaints. Any person(s) found to have made such a Complaint may be subject to the University's disciplinary Procedures as contained in the Enterprise Agreement or other relevant contract of employment.

4 References

Nil.

5 Schedule Information

Accountable Officer	Deputy Vice-Chancellor (Enterprise Services)
Responsible Officer	Deputy Vice-Chancellor (Enterprise Services)
Policy Type	University Procedure
Policy Suite	Employee Complaints and Grievances Policy
Approved Date	13/7/2021
Effective Date	13/7/2021
Review Date	3/4/2024
Relevant Legislation	Anti-Discrimination Act 1991 Disability Discrimination Act 1992 Human Rights Act 2019 Public Interest Disclosure Act 2010 (Qld) Sex Discrimination Act 1984 Enterprise Agreement Work Health and Safety Act 2011 (Qld)
Policy Exceptions	Policy Exceptions Register
Related Policies	Code of Conduct Policy Employee Diversity and Inclusion Policy Harassment and Discrimination Complaint Resolution for Students Policy and Procedure Media Engagement Policy Public Interest Disclosure Policy
Related Procedures	Disciplinary Action for Misconduct or Serious Misconduct Procedure Discrimination, Bullying and Harassment Complaints against Employees Procedure Media Engagement Procedure

	Prevention of Discrimination, Bullying and Harassment Procedure Termination of Employment Procedure
Related forms, publications and websites	Employee Complaints and Grievances Form Feedback, Complaints and Appeals People Portfolio Website Student Equity Website
Definitions	Terms defined in the Definitions Dictionary Complainant A person who has made a Complaint. Complaint A Complaint is an “expression of dissatisfaction made to or about the University, related to its products, services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required”. Decision A determination made by an Employee, contractor or other authorised delegate in the course of their duties on behalf of the University. Discrimination Occurs when a person or a group of people are treated less favourably than another person or group because of race, colour, national or ethnic origin; gender or marital status; disability; religion or political beliefs; sexual preference; or some other central characteristic. Discrimination may occur when a person is denied the opportunity to participate freely and fully in normal day-to-day activities, for example being harassed in the workplace or being denied entry to public places and other facilities. Employee A person employed by the University and whose conditions of employment are covered by the Enterprise Agreement and includes persons employed on a continuing, fixed term or casual basis. Employees also include senior Employees whose conditions of employment are covered by a written agreement or contract with the University.

[Formal Complaint](#)

A Formal Complaint is a written Complaint lodged with the relevant delegate, which is dealt with through a formal process of the University. It may lead to a formal investigation of allegations.

[Harassment](#)

Harassment includes, but is not limited to, treating a person less favourably because of a person's characteristic such as their sex, race, age, disability, sexuality, religious or political belief or activity, or some other characteristic protected under anti-discrimination laws. Harassment may include Bullying a person and may also breach human rights legislation.

[Information](#)

Any collection of data that is processed, analysed, interpreted, organised, classified or communicated in order to serve a useful purpose, present facts or represent knowledge in any medium or form. This includes presentation in electronic (digital), print, audio, video, image, graphical, cartographic, physical sample, textual or numerical form.

[Mediation](#)

A process in which parties to a dispute, with the assistance of a neutral third party ('the Mediator'), identify the disputed issues, develop options, consider alternatives and endeavour to reach an agreement. The Mediator has no advisory or other determinative role with regard to the content of the dispute or the outcome of its resolution, but may advise on or determine the process of mediation whereby resolution is attempted.

[Mediator](#)

An individual with appropriate experience and training appointed by the University to assist the Complainant and Respondent to negotiate a solution which is acceptable to both of them but not to determine what that solution will be.

[Procedure](#)

An operational instruction that sets out the process to operationalise a Policy.

[Respondent](#)

A member of the University community against whom a Complaint has been made.

[Student](#)

A person who is enrolled in a UniSQ Upskill Course or who is admitted to an Award Program or Non-Award Program offered by the University and is: currently enrolled in one or more Courses or study units; or not currently enrolled but is on an approved Leave of Absence or whose admission has not been cancelled.

[University](#)

The term 'University' or 'UniSQ' means the University of Southern Queensland.

[Enterprise Agreement](#)

University of Southern Queensland Enterprise Agreement 2023-2026.

[Victimisation](#)

Any unfavourable treatment, or threats of unfavourable treatment against a person as a result of their actual or intended involvement in a complaint. Such involvement might include making a complaint or supplying information or producing documents to someone making a complaint. Unfavourable treatment may include adverse changes to their study or work environment, denial of access to resources, opportunities or training, ignoring the person or giving a lower assessment of Student work.

[Vilification](#)

The public incitement of hatred, serious contempt or severe ridicule of a person on the basis of the race, religion, sexuality or gender identify of a person or members of a group. It can take several forms including hate-speech, graffiti, websites and the distribution of propaganda or other forms of offensive literature. Vilification includes threatening physical harm to a person or their property or inciting others to threaten physical harm to a person or to their property. Vilification is an offence against the Anti-Discrimination Act 1991.

[Workplace Bullying and Harassment](#)

Workplace Bullying and Harassment, under the Fair Work Act 2009, occurs where an individual or group of individuals repeatedly behaves unreasonably towards an Employee or group of Employees at work, and that behaviour creates a risk to health and safety. Within this

definition: Repeated Behaviour refers to the persistent nature of the behaviour and can range in behaviours over time. Unreasonable Behaviour is behaviour that a reasonable person, having regard to the circumstances, may see as unreasonable. This may include but is not limited to behaviour that is victimising, humiliating, intimidating or threatening. A Risk to Health and Safety means the possibility of danger to health and safety, and is not confined to actual danger to health and safety

Definitions that relate to this schedule only

Disciplinary Action

Means action by the University to discipline an Employee for Misconduct or Serious Misconduct and includes: formal censure or counselling; demotion by one or more classification levels or increments; withholding of an increment; suspension with or without pay; or termination of employment for Serious Misconduct only.

Facilitation

A confidential meeting between people in conflict, facilitated by a Supervisor or People Portfolio representative. The meeting aims to discuss and resolve issues between individuals so that they can work out an agreement which suits them all. Supervisor and People Portfolio representatives who facilitate the meeting between parties are also obligated to counsel and advise individuals of expected behaviours in accordance with the Code of Conduct Policy and other appropriate policies, and identify any development opportunities for individuals involved.

Harassment under the Disability Discrimination Act

The *Disability Discrimination Act 1992* prohibits Harassment and Victimisation of Students and Employees with disabilities, on the basis of disability, including;

(a) The need for individual strategies and adjustments for a Student; and (b) The need to use such supports as a wheelchair, hearing aid, breathing support, an interpreter, a reader, an assistant or carer or a guide or hearing dog, or other appropriately trained animal.

The Act also prohibits Harassment and Victimisation of the associates of Students and Employees with disabilities, on the basis of disability.

Investigation

A formal proceeding undertaken by an individual with appropriate experience and training appointed by the University, to assess a

	<p>Complaint of Workplace Bullying and Harassment, Discrimination or Harassment in order to establish its veracity and recommend possible action. This may include Disciplinary Action. Investigation requires interviewing both Complainant and Respondent(s), any relevant witnesses and reviewing any relevant documentation or records to corroborate such testimony.</p> <p>Supervisor</p> <p>Any person responsible for leading the activities of others. In the context of this schedule, a Supervisor includes Employees at any classification level or title who have responsibilities for leading, managing or supervising work teams and/or individual Employees.</p> <p>Nominated Representative</p> <p>In relation to an Employee, means a person selected by the Employee to assist or represent the Employee. The person may be an officer or Employee of the relevant Union, or any other person chosen by the Employee. In relation to the University, it means a person selected by the University to assist or represent the University. The person may be an Employee of the University, or an officer or Employee of AHEIA, or any other person selected by the University. The Nominated Representative must not be a practising barrister or solicitor and must not present a Conflict of Interest.</p>
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