

# Employee Complaints (Sexual Harassment, Sexual Assault and Sex Discrimination) Procedure



## 1 Purpose

To provide a fair and uniform process for the resolution of Complaints made against Employees in relation to Sexual Harassment, Sexual Assault, and Sex Discrimination (Sexual Misconduct) to foster a safe and inclusive working and learning environment free from all forms of Discrimination, Bullying, and Harassment.

Under the *Sex Discrimination Act 1984* (Cth) the University has a legal positive duty to take proactive and meaningful action to prevent Sexual Misconduct from occurring in the workplace or in connection with work. Taking preventative action will help to create safe, respectful and inclusive workplaces.

## 2 Scope

This procedure applies to Complaints made by University Members and Students against Employees in relation to unlawful Discrimination and/or Harassment, including Sexual Harassment, Sexual Assault and Sex Discrimination (Sexual Misconduct).

This Procedure does not apply to:

- Complaints made against Employees in relation to Discrimination, Bullying, and/or Harassment which do not constitute Sexual Misconduct; or
- Complaints of Sexual Misconduct made against Students, contractors, volunteers, honorary academics, adjunct academics, members of Council, or external members of University committees.

The University will determine which Policy Instrument or process applies to the management of Complaints against Employees.

## 3 Procedure Overview

This Procedure outlines the Complaint Management Process to be followed in resolving Complaints of Sexual Misconduct made by University Members and Students against Employees.

## 4 Procedures

## **4.1 Definitions**

### **4.1.1 Complaint**

A Complaint is a statement of dissatisfaction or concern made by an individual against an Employee in relation to the Employee's conduct towards the individual.

### **4.1.2 Complainant**

A Complainant is the individual who makes a Complaint against an Employee.

### **4.1.3 Complaint Manager**

A person nominated by the Chief People Officer to manage a Complaint.

### **4.1.4 Consent**

Consent is the free and voluntary agreement (given verbally, in writing or through conduct) to engage in or continue to engage in an activity or act and may be withdrawn at any time.

For the purposes of this Procedure an individual is deemed not to have given Consent freely and voluntarily, if the Consent was obtained:

- by force;
- by threat or intimidation;
- by fear of harm; or
- by exercise of authority; or
- by false and fraudulent representations about the nature or purpose of the activity or act;  
or
- by a false or fraudulent representation about identity.

An individual must have the cognitive capacity to give Consent. For the purposes of this Procedure, an individual is deemed not to have the cognitive capacity to give Consent if they:

- are under 16 years of age;
- are asleep or unconscious;
- are under the effect of alcohol or drugs;

- are in any other way cognitively impaired or Disabled.

Consent must be given freely and voluntarily for every instance of an activity or act. If an individual does not object to inappropriate behaviour, it does not mean that they are providing Consent.

#### **4.1.5 Hostile Workplace Environment**

A workplace environment is considered hostile on the grounds of sex if a reasonable person, having regard to all the circumstances, would have anticipated that the conduct within a workplace environment is offensive, intimidating or humiliating to a person of a particular sex because of:

- the sex of that person;
- a characteristic that generally relates to a person of that sex; or
- a characteristic a person is generally thought to have because of their sex.

Examples of hostile conduct on the grounds of sex may include:

- displaying obscene or pornographic materials;
- conduct involving gendered stereotypes, such as making only women workers responsible for cleaning the office;
- making demeaning comments about anatomical attributes or topics such as pregnancy, menstruation or menopause;
- the display or circulation of obscene, sexist, pornographic or sexual photos, materials, posters or gifts;
- making sexist, derogatory, suggestive or sexual comments, jokes or banter; or
- sexist, derogatory, suggestive or sexual emails, phone calls, text messages or online interactions - including the use of emojis with sexual connotations.

#### **4.1.6 Sexual Assault**

Is any unwanted or forced sexual act or behaviour without Consent. This covers a broad range of sexual activity. Sexual assault occurs when an individual:

- without lawful reason indecently assaults a person including but not limited to groping or inappropriate touching of a sexual nature; or
- procures a person, without their Consent, to commit an act of a sexual nature.

#### **4.1.7 Sex Discrimination**

Sex Discrimination can be direct or indirect.

Direct Discrimination is treating a person less favourably because of their sex than someone of a different sex, in similar circumstances.

Indirect Discrimination occurs when there is an unreasonable requirement that people with a certain attribute or characteristic have difficulty complying with, compared to others without that attribute. The intentions of the decision maker in this circumstance are irrelevant.

The University recognises that an individual can be discriminated against because of one or more characteristics that are part of, or are perceived as part of, their identity. This is known as the intersectionality of Discrimination. For example, a person who is discriminated against on the grounds of their sexuality may also be discriminated against on the grounds of gender.

Sex Discrimination is unlawful in all aspects of work, including recruitment, terms and conditions on which a job is offered, employment benefits, training, transfers, promotion and dismissal.

#### **4.1.8 Sexual Harassment**

Sexual Harassment is defined in the *Sex Discrimination Act 1984* as unwelcome conduct of a sexual nature, including unwelcome sexual advances or requests for sexual favours, directed at an individual in circumstances in which a reasonable person would have anticipated the possibility that the individual would be offended, humiliated or intimidated.

Examples of Sexual Harassment include but are not limited to:

- unwelcome physical touching;
- sexual or suggestive comments or jokes;
- unwelcome requests for sex;
- intrusive questions about a person's private life or body;
- the display of sexually explicit material, such as posters or pictures;
- unwanted invitations to go on dates;
- staring or leering;

- sex-based insults or taunts; and
- sexually offensive communications, including telephone calls, letters, text messages, email, and online interactions.

#### **4.1.9 Trauma-informed**

The University will follow a Trauma-informed approach in relation to Complaints of Sexual Misconduct, which recognises the impact of trauma on the parties, affirms the dignity, and prioritises the physical, psychological, and emotional safety, of all individuals involved in the Complaint.

#### **4.1.10 Respondent**

A Respondent is the Employee against whom a Complaint is made.

#### **4.1.11 Victimisation and Vilification**

Victimisation means any unfavourable treatment, or threats of unfavourable treatment against a person as a result of their actual or intended involvement in a Complaint.

Vilification means the public incitement of hatred, serious contempt for, or severe ridicule of a person or a group of people on the basis of a protected attribute.

Victimisation and Vilification constitute a breach of the Code of Conduct Policy and Employees who victimise or vilify a Complainant, may be subject to Disciplinary Action.

#### **4.1.12 Witness**

A Witness is an individual who may have information or evidence in relation to a Complaint.

### **4.2 Prevention of Complaints**

The Prevention of Discrimination, Bullying, Harassment and Sexual Misconduct Policy outlines the key principles governing the University's approach to preventing and responding to incidents of Discrimination, Bullying, Harassment (including Sexual Harassment and Sexual Assault).

For the purposes of this Procedure, the University will:

- collect, monitor, and review data in relation to Sexual Misconduct Complaints at the University to ensure intervention;
- regularly report on the operation of this Procedure to the appropriate University

management committee to inform reasonable and proportionate measures to be taken by the University; and

- provide regular training to Employees to ensure they understand their responsibility to prevent Sexual Misconduct in the workplace and contribute to a safe, inclusive and respectful workplace.

## **4.3 Notification of Complaints**

### **4.3.1 Raising Concerns**

If an individual chooses to attempt resolution of their concerns themselves, they may raise their concerns directly with the Employee, either verbally or in writing.

If an individual verbally discusses their concerns with the Employee, it is recommended that they keep an accurate record of the conversation.

University Members may seek advice and support from their Supervisor or the People Portfolio, and Students may seek advice and support from the Safer Communities Coordinator, prior to attempting resolution of their concerns through discussion with the Employee or the Employee's supervisor. This will depend on the nature of the concerns.

If an individual does not wish to attempt to resolve their concerns through discussion with the Employee, or if it is not appropriate or safe to do so, they may make a Complaint.

An Individual should not attempt to raise concerns directly with the Employee if they have concerns about their safety.

### **4.3.2 Making a Complaint**

Complainants are encouraged to notify the University of their Complaint as soon as possible, as the duration of time between the incident and the making of the Complaint may impact how effectively or efficiently the Complaint can be managed.

University Members who wish to make a Complaint against an Employee should complete the Employee Complaints Form, or submit their Complaint to the Chief People Officer via email. If the Complainant would prefer, a meeting can be arranged with a member of the People Portfolio to record the Complaint.

Students who wish to make a Complaint against an Employee should immediately advise the Safer Communities Coordinator by completing the Share a Concern Form or arranging a meeting to record the Complaint, or submit their Complaint to the Chief People Officer via email.

#### **4.3.2.1 Anonymous Complaints**

Anonymous Complaints will be accepted by the University, however the University will not normally investigate or act on anonymous Complaints made about Employees unless the

allegations provide sufficient information to enable the University to enquire into the allegations, or unless required by law to do so.

Anonymous Complaints which have been de-identified may be used for reporting purposes and to assist in the prevention of Sexual Misconduct at the University.

#### **4.3.2.2 Public Interest Disclosures**

A Public Interest Disclosure includes reports of matters affecting public interest including, but not limited to, corrupt conduct, maladministration, substantial misuse of public resources, offences, danger to a person with a Disability, or reprisal for making a Complaint.

Any individual can make a Public Interest Disclosure. Public Interest Disclosures must be made in accordance with the Public Interest Disclosure Act 20210 and the Public Interest Disclosure Procedure.

## **4.4 Assessment of Complaints**

Upon receipt of a Complaint, the Chief People Officer will determine whether the Complaint should be managed in accordance with this Procedure, or another Policy Instrument or University process.

The Chief People Officer will appoint a Complaint Manager who has the necessary skills and experience to manage the Complaint.

Upon receipt of a Complaint, the Complaint Manager will identify any Psychosocial Hazards and will implement measures to control risks to the parties.

If further information is required to understand the particulars of the Complaint, the Complaint Manager will request the Complainant to provide this information and the Complainant must provide this information to the Complaint Manager without delay, to ensure all parties are afforded natural justice.

If the allegations which form the basis of the Complaint constitute Misconduct or Serious Misconduct, the Chief People Officer may refer the Complaint for management in accordance with the Enterprise Agreement. In this case, this Procedure will cease to apply to the management of the Complaint.

## **4.5 Resolution of Complaints**

Although the Complainant will be consulted to ensure the resolution is Trauma-informed, the strategies and mechanisms used to resolve a Complaint are at the Chief People Officer's discretion during every stage of the Complaint management process, which may include, but are not limited to:

- a Conflict Resolution Process, such as:
  - facilitation; or
  - mediation; or
- an Investigation.

#### **4.5.1 Facilitation**

Facilitation is a process in which the parties to a Complaint are assisted by a facilitator to identify the details of the Complaint, consider and communicate their perspectives and attempt to reach a resolution, through respectful discussion and sharing of perspectives.

Complaints may be resolved through a process of facilitated discussion, supported by a Complaint Manager, which could include the appropriate Supervisor from the work area.

It may not be appropriate or safe to undertake a facilitation process in circumstances of Sexual Misconduct. However, if a facilitation process is appropriate in the particular circumstances, a Trauma-informed approach will be adopted.

The Facilitator may provide the parties with reasonable directions to resolve the Complaint, such as setting performance or behavioural expectations and standards in the workplace.

During the facilitation process, the facilitator will not make a finding of fact or determination but will instead attempt to resolve the Complaint, through respectful discussion and expectations.

#### **4.5.2 Mediation**

Mediation is a voluntary process in which the parties to a Complaint are assisted by a mediator to identify the details of the Complaint, consider, and communicate their perspectives to each other, and attempt to reach agreement on the resolution of the Complaint, which may be formalised in a written agreement and signed by both parties.

It may not be appropriate or safe to undertake a mediation process in circumstances of Sexual Misconduct. However, if a mediation process is appropriate in the particular circumstances, a Trauma-informed approach will be adopted.

At the discretion of the University, and having regard to the nature and details of the Complaint, it is appropriate for a third-party with the necessary qualifications and skills to be appointed as mediator.

A mediation process can be undertaken at any stage of the Complaint management process, with the agreement of the parties to the Complaint.

During a mediation process, the mediator will not make findings of fact or determinations but will instead lead the parties towards reaching agreement on the resolution of the Complaint.



### **4.5.3 Investigation**

The Chief People Officer may appoint an independent investigator (either external or internal to the University) to make findings of fact in relation the Complaint.

Prior to the commencement of an investigation of the Complaint, all information and supporting documents relevant to the Complaint, must be provided to the investigator.

Parties to the Complaint will be requested to provide the details of any Witnesses or other individuals who may be able to assist the investigator in their investigation of the Complaint. It is in the investigator's sole discretion to include in or exclude witnesses from their investigation, the evidence provided by a Witness or other individual involved in the Complaint.

The investigator will observe the principles of procedural fairness and natural justice in their investigation of the Complaint.

At the conclusion of the investigation process, the investigator will make findings of fact and report these findings, along with their recommendation for resolving the Complaint, to the Chief People Officer or Relevant Senior Officer, as appropriate, for their consideration and decision.

The Chief People Officer will notify the parties of the University's decision regarding the resolution of the Complaint and may provide the parties with reasonable directions to resolve the Complaint or advise of the University's decision to refer the matter to a Misconduct or Serious Misconduct process under the Enterprise Agreement.

The investigation report will remain confidential and will not be provided to the parties to the Complaint.

### **4.5.4 Disciplinary Action**

An Employee who has substantiated allegations of Sexual Misconduct in accordance with the provisions of the Enterprise Agreement may have Disciplinary Action taken against them for engaging in Misconduct or Serious Misconduct. Disciplinary Action includes:

- formal warning or counselling;
- demotion by one or more classification levels or incremental steps;
- withholding of an incremental step; or
- termination of employment for Serious Misconduct.

## **4.6 Liability**

Employees who engage in Sexual Misconduct or cause, request, instruct, induce, encourage, aid, authorise, assist, or permit someone to subject another person to Sexual Misconduct, may be liable at law for their actions.

The University may be vicariously liable for the actions of Employees who engage in Sexual Misconduct.

## 4.7 Record keeping

The Complaint and the process undertaken by the University in resolving the Complaint must be appropriately recorded in a confidential and secure manner by the Complaint Manager.

If the Complainant's or Respondent's supervisor acted as the Complaint Manager, they are responsible for providing the People Portfolio with all relevant materials in relation to the Complaint, for appropriate recordkeeping in a confidential and secure manner.

## 4.8 Referral of Complaints

If a Complainant or Respondent is not satisfied with the decision and actions taken by the University with respect to the resolution of a Complaint, they may refer their Complaint to the relevant external agency.

Individuals may make a Complaint or seek assistance from a range of external agencies, depending on the nature of their Complaint and the reason for their dissatisfaction with the University's Complaint management process, which may include, but are not limited to, the following agencies:

- the Australian Human Rights Commission, or the Queensland Human Rights Commission;
- Workplace Health and Safety Queensland;
- WorkCover Queensland;
- the Fair Work Ombudsman;
- the Fair Work Commission; or
- the Queensland Police Service.

Nothing in this Procedure prevents individuals from raising Complaints of Sexual Misconduct directly with the Queensland Police Service.

## 4.9 Support

Employees are encouraged to access the confidential and free counselling service provided through the Employee Assistance Program.

Additionally, Employees are encouraged to contact the People Portfolio for advice in relation to the Complaint management process, conflict resolution measures, and alternative support available to reduce the risk to Employees involved in the Complaint.

Students are encouraged to seek advice and support from the Safer Communities Coordinator.

## 4.10 Feedback

Feedback on the procedure and the University's approach to preventing Sexual Misconduct in the workplace can be submitted directly to the Chief People Officer.

## 4.11 Delegations

Position	Delegation
Category 2 Delegate	<p><b>Relevant Senior Officer:</b></p> <ul style="list-style-type: none"><li>• Suspend an Employee upon the recommendation of the Chief People Officer.</li><li>• On receipt of the investigation report, decide whether or not Disciplinary Action is warranted against an Employee.</li></ul>
Category 3 Delegate	<p><b>Chief People Officer:</b></p> <ul style="list-style-type: none"><li>• Decide to manage a Complaint in accordance with the Employee Complaints (Sexual Harassment, Sexual Assault and Sex Discrimination) Procedure or another policy or procedure.</li><li>• Decide and issue reasonable directions to resolve a Complaint.</li><li>• Refer a Complaint for management in accordance with section 47 of the Enterprise Agreement (Managing Misconduct or Serious Misconduct).</li><li>• Recommend to suspend an Employee.</li></ul>

## 5 References

Nil.

## 6 Schedules

This procedure must be read in conjunction with its subordinate schedules as provided in the table below.

## 7 Procedure Information

<b>Accountable Officer</b>	Chief People Officer
<b>Responsible Officer</b>	Chief People Officer
<b>Policy Type</b>	University Procedure
<b>Policy Suite</b>	<a href="#">Employee Complaints Policy</a>
<b>Subordinate Schedules</b>	
<b>Approved Date</b>	29/5/2024
<b>Effective Date</b>	29/5/2024
<b>Review Date</b>	29/5/2029
<b>Relevant Legislation</b>	<a href="#">Enterprise Agreement</a> <a href="#">Sex Discrimination Act 1984 (Cth)</a> <a href="#">Public Interest Disclosure Act 2010 (Qld)</a>
<b>Policy Exceptions</b>	<a href="#">Policy Exceptions Register</a>
<b>Related Policies</b>	<a href="#">Prevention of Discrimination, Bullying, Harassment and Sexual Misconduct Policy</a> <a href="#">Public Interest Disclosure Policy</a>
<b>Related Procedures</b>	<a href="#">Employee Complaints Procedure</a> <a href="#">Public Interest Disclosure Procedure</a>
<b>Related forms, publications and websites</b>	<a href="#">Employee Complaints Form</a>

## Definitions

### Terms defined in the Definitions Dictionary

#### [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.

#### [Sexual Misconduct](#)

A broad term used to describe a range of isolated or combined behaviours of a sexual nature, used without consent or that are otherwise unwelcome. May include conduct defined as Sexual Harassment or a Sexual Offence.

#### [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.

#### [University Members](#)

Persons who include: Employees of the University whose conditions of employment are covered by the UniSQ Enterprise Agreement whether full time or fractional, continuing, fixed-term or casual, including senior Employees whose conditions of employment are covered by a written agreement or contract with the University; members of the University Council and University Committees; visiting, honorary and adjunct appointees; volunteers who contribute to University activities or who act on behalf of the University; and individuals who are granted access to University facilities or who are engaged in providing services to the University, such as contractors or consultants, where applicable.

### Definitions that relate to this procedure only

#### **Bullying**

Bullying is defined by the *Fair Work Act 2009* (Cth) as repeated unreasonable behaviour directed towards a person or group of people, either in person or online, that creates a risk to health and safety.

Examples of bullying include, but are not limited to:

- abusive, insulting, or offensive language or comments;
- intimidation;
- unjustified criticism or Complaints;
- deliberately excluding an individual from work- or study-related activities;
- deliberately withholding information that is vital for effective work or study performance;
- setting unreasonable or constantly changing deadlines;
- setting tasks that are unreasonably below or beyond a person's skill level;
- denying access to information, supervision, consultation or resources to the detriment of an Employee or Student;
- spreading misinformation or malicious rumours about an individual; and
- changing work arrangements to deliberately inconvenience a particular Employee.

Reasonable management action, carried out in a reasonable manner, does not constitute Bullying. Reasonable management action is action taken by management to direct and control the way work is carried out, such as the fair and reasonable allocation of work and providing feedback on performance in a constructive way.

### **Complainant**

A Complainant is the individual who makes a Complaint against an Employee.

### **Complaint**

A Complaint is a statement of dissatisfaction or concern made by an individual against an Employee in relation to the Employee's conduct towards the individual.

### **Complaint Manager**

A person nominated by the Chief People Officer to manage a Complaint.

### **Consent**

Consent is the free and voluntary agreement (given verbally, in writing or through conduct) to engage in or continue to engage in an activity or act and may be withdrawn at any time.

For the purposes of this Procedure an individual is deemed not to have given consent freely and voluntarily, if the consent was obtained:

- by force;
- by threat or intimidation;
- by fear of harm; or
- by exercise of authority; or
- by false and fraudulent representations about the nature or purpose of the activity or act; or
- by a false or fraudulent representation about identity.

An individual must have the cognitive capacity to give consent. For the purposes of this Procedure, an individual is deemed not to have the cognitive capacity to give consent if they:

- are under 16 years of age;
- are asleep or unconscious;
- are under the effect of alcohol or drugs;
- are in any other way cognitively impaired or Disabled.

Consent must be given freely and voluntarily for every instance of an

activity or act. If an individual does not object to inappropriate behaviour, it does not mean that they are providing consent.

## **Discrimination**

Australia has laws regarding unlawful Discrimination, such as the *Age Discrimination Act 2004* (Cth), *Disability Discrimination Act 1992* (Cth), *Racial Discrimination Act 1975* (Cth), and the *Sex Discrimination Act 1984* (Cth).

The *Anti-Discrimination Act 1991* (Qld) (Act) prohibits Discrimination on the basis of the following protected attributes:

- sex;
- relationship status;
- pregnancy;
- parental status;
- breastfeeding;
- age;
- race;
- impairment;
- religious belief or activity;
- political belief or activity;
- trade union activity;
- lawful sexual activity;
- gender identity;
- sexuality;
- family responsibilities; and/or
- association with, or relation to, a person identified on the basis of any of the above attributes.



Direct Discrimination means to treat, or propose to treat, an individual less favourably because an attribute listed in the Act (such as age or sex) applies to them.

Indirect Discrimination means to impose, or propose to impose, terms on a person to whom an attribute listed in the Act applies, which are unreasonable and with which they are unable to comply, such as a rule that applies to everyone but has the effect of being less favourable to a person of a particular gender or impairment.

The University recognises that an individual can be discriminated against because of one or more characteristics that are part of or are perceived as part of their identity. This is known as the intersectionality of Discrimination. For example, where a person is Discriminated against on the grounds of their ethnicity may also be considered Discrimination on the grounds of gender, sexual orientation, and age.

Other conduct which meets the definition of Discrimination, includes:

- Vilification which is to publicly incite hatred, serious contempt, or severe ridicule of a person on the grounds of race, religion, sexuality, gender identity, or disability; and
- Victimisation which is treating or threatening to treat a person detrimentally because they have made or intend to make a Complaint or because they have supported the Complainant in making a Complaint.

## **Harassment**

Harassment includes any behaviour that is unwelcome, unsolicited or unreciprocated and is likely to offend, insult, humiliate or intimidate a person.

Examples of Harassment include, but are not limited to:

- telling insulting or offensive jokes;
- sending offensive emails or text messages;
- displaying offensive posters or screen savers;
- making derogatory comments or taunts about someone; or

- asking intrusive questions about someone's personal life.

### **Hostile Workplace Environment**

A workplace environment is considered hostile on the grounds of sex if a reasonable person, having regard to all the circumstances, would have anticipated that the conduct within a workplace environment is offensive, intimidating or humiliating to a person of a particular sex because of:

- the sex of that person;
- a characteristic that generally relates to a person of that sex;  
or
- a characteristic a person is generally thought to have because of their sex.

Examples of hostile conduct on the grounds of sex may include:

- displaying obscene or pornographic materials;
- conduct involving gendered stereotypes, such as making only women workers responsible for cleaning the office;
- making demeaning comments about anatomical attributes or topics such as pregnancy, menstruation or menopause;
- the display or circulation of obscene, sexist, pornographic or sexual photos, materials, posters or gifts;
- making sexist, derogatory, suggestive or sexual comments, jokes or banter; or
- sexist, derogatory, suggestive or sexual emails, phone calls, text messages or online interactions - including the use of emojis with sexual connotations.

### **Misconduct and Serious Misconduct**

In response to allegations of conduct that may be considered Misconduct or Serious Misconduct, the University may immediately initiate an investigation process in accordance with the Enterprise

Agreement without further application of the *Employee Complaints Procedure or Employee Complaints (Sexual Harassment, Sexual Assault and Sex Discrimination) Procedure*.

Misconduct means conduct which is not Serious Misconduct but is nonetheless unacceptable or inappropriate, including but not limited to:

- wrongful or improper conduct of the kind which constitutes an impediment to carrying out an Employee's duties or to the Employee's colleagues carrying out their duties;
- dereliction of the duties required of the Employee; or
- research misconduct of a minor nature.

Serious Misconduct means conduct which involves deliberate behaviour by an Employee that is inconsistent with the continuation of their employment, and includes, but is not limited to:

- the Employee, in the course of their employment, engaging in:
  - conduct that causes serious and imminent risk to the health or safety of another person;
  - conduct that causes serious and imminent risk to the reputation or profits of the University;
  - theft;
  - fraud;
  - assault;
  - Sexual Harassment; or
  - research misconduct of a serious nature;
  - the Employee being intoxicated at work; or
  - the Employee refusing to carry out a lawful and reasonable instruction that is consistent with their employment agreement.

## **Psychosocial Hazards**

The *Work Health and Safety Regulation 2011* (Qld) defines a Psychosocial Hazard as a hazard that:

- arises from or relates to:
  - the design or management of work;
  - a work environment;
  - plant at a workplace; or
  - workplace interactions or behaviours; and
- may cause psychological harm, whether or not the hazard may also cause physical harm.

The University has a duty to identify, manage and eliminate Psychosocial Hazards as far as reasonably practicable and to implement, maintain and review measures to control psychosocial risks.

### **Respondent**

A Respondent is the Employee against whom a Complaint is made.

### **Sex Discrimination**

Sex Discrimination can be direct or indirect.

Direct Discrimination is treating a person less favourably because of their sex than someone of a different sex, in similar circumstances.

Indirect Discrimination occurs when there is an unreasonable requirement that people with a certain attribute or characteristic have difficulty complying with, compared to others without that attribute. The intentions of the decision maker in this circumstance are irrelevant.

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Sex Discrimination is unlawful in all aspects of work, including recruitment, terms and conditions on which a job is offered, employment benefits, training, transfers, promotion and dismissal.

### **Sexual Assault**

Is any unwanted or forced sexual act or behaviour without consent. This covers a broad range of sexual activity. Sexual assault occurs when an individual:

- without lawful reason indecently assaults a person including but not limited to groping or inappropriate touching of a sexual nature; or
- procures a person, without their consent, to commit an act of a sexual nature.

### **Sexual Harassment**

Sexual Harassment is defined in the Sex Discrimination Act 1984 as unwelcome conduct of a sexual nature, including unwelcome sexual advances or requests for sexual favours, directed at an individual in circumstances in which a reasonable person would have anticipated the possibility that the individual would be offended, humiliated or intimidated.

Examples of Sexual Harassment include but are not limited to:

- unwelcome physical touching;
- sexual or suggestive comments or jokes;
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- intrusive questions about a person's private life or body;
- the display of sexually explicit material, such as posters or pictures;
- unwanted invitations to go on dates;
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- sexually offensive communications, including telephone calls, letters, text messages, email, and online interactions.

### **Trauma-informed**

The University will follow a trauma-informed approach in relation to Complaints of Sexual Misconduct, which recognises the impact of trauma on the parties, affirms the dignity, and prioritises the physical, psychological, and emotional safety, of all individuals involved in the Complaint.

### **Victimisation and Vilification**

Victimisation means any unfavourable treatment, or threats of unfavourable treatment against a person as a result of their actual or intended involvement in a Complaint.

Vilification means the public incitement of hatred, serious contempt for, or severe ridicule of a person or a group of people on the basis of a protected attribute.

Victimisation and Vilification constitute a breach of the Code of Conduct Policy and Employees who victimise or vilify a Complainant, may be subject to Disciplinary Action.

### **Witness**

A Witness is an individual who may have information or evidence in relation to a Complaint.

### **Keywords**

Complaints, Discrimination, Bullying, Harassment, conduct, Sexual Harassment, Sexual Assault, Sexual Misconduct

### **Record No**

13/301PL