

Discrimination and Harassment Complaint Resolution Schedule



1 Purpose

To support the rights of Students and Employees to achieve their full potential free from Discrimination, Harassment, Victimization 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 Victimization 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 action

All enquiries, concerns and Complaints should be directed in the first instance to an Harassment and Diversity Contact Officer.

The role of the Harassment and Diversity Contact Officer is to act fairly and impartially to provide Information and support, in confidence to:

- members of the University community who perceive that they may have experienced Discrimination or Harassment, or who believe that an allegation of Discrimination or Harassment may be, or has been, made against them
- individuals who believe that they have been vilified on the basis of their race or religion, or who believe that an allegation of Vilification may be, or has been, made against them
- individuals who believe they have been victimised as a consequence of taking action, or being presumed to have taken action, under these Procedures.

The role of Harassment and Diversity Contact Officer is to ensure that the individual is able to make an informed choice about further action.

The same Harassment and Diversity Contact Officer will not deal with more than one individual in any particular case. An Harassment and Diversity Contact Officer who handles the initial Complaint cannot be part of an Investigation, or involved in initiating Disciplinary Action; or liaise directly with the Human Rights Commission Queensland if a Formal Complaint has been lodged under the Sex Discrimination Act 1984, Anti-Discrimination Act 1991 or Human Rights Act 2019.

3.1.2 Stage 2: further advice and assistance

If an individual feels they are being Harassed or Discriminated against they can request that the matter be dealt with through a neutral third party Mediation process, where appropriate.

Where Mediation is requested, the Harassment and Diversity Contact Officer notifies, and forwards the file to, Human Resources. Human Resources 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 Human Resources with an invitation to attend a confidential Mediation session. They will receive Information about the Procedure of the Mediation, a list of Harassment and Diversity Contact Officers who can provide additional Information and support 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 Human Resources and when finalised, all notes will be provided to Human Resources. 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 Human Resources.

If Mediation is unsuccessful in reaching an agreement, the Complainant has the option of proceeding to Stage 3: Investigation.

3.1.3 Stage 3: Investigation

If Mediation is unsuccessful, and if the Complainant wishes to pursue the matter further, a Formal Complaint must be lodged in writing to the Executive Director (Human Resources). 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.

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. The individual must be prepared to provide a written, signed statement.

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 it is established that the Complaint is properly founded, the Executive Director (Human Resources) will initiate an Investigation.

Where a Complaint is not properly founded or unsubstantiated then no further action will be taken. The Executive Director (Human Resources) will advise the Complainant and Respondent of this Decision.

Where the Complaint is properly founded, the Executive Director (Human Resources) will provide the Respondent with a copy of the Complainant's Formal Complaint as soon as practicable. The Respondent will be given the opportunity to respond to the allegations within 10 working days, where practicable.

The Executive Director (Human Resources) 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. This formal Investigation may entail gathering evidence, interviewing the Complainant and the Respondent separately, and interviewing other individuals.

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

Confidentiality will be respected and maintained at all times during 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 Executive Director (Human Resources) for consideration. The Executive Director (Human Resources) will review the outcomes and any recommendations made by the investigator and commence appropriate action to resolve the Complaint.

The Executive Director (Human Resources) will advise both the Complainant and the Respondent of the Executive Director's Decision and any action to be taken.

The University will take all reasonable steps to ensure that the Complainant will not be victimized regardless of the outcome of the action.

If the allegations are substantiated, the Respondent may be subject to Disciplinary Action.

3.2 Disciplinary Action

Where Discrimination or Harassment is found to have occurred, this may be considered as misconduct or serious misconduct and Disciplinary Action may be commenced against the person against whom the findings were made.

Where Disciplinary Action is recommended the Executive Director (Human Resources) 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 USQ 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 USQ 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
Approved Date	12/12/2018
Effective Date	3/4/2019
Review Date	3/4/2022
Relevant Legislation	<i>Anti-Discrimination Act 1991</i> <i>Disability Discrimination Act 1992</i> <i>Human Rights Act 2019</i> <i>Public Interest Disclosure Act 2010 (Qld)</i> <i>Sex Discrimination Act 1984</i> USQ Enterprise Agreement <i>Work Health and Safety Act 2011 (Qld)</i>
Related Policies	Code of Conduct Policy

	<p>Employee Complaints and Grievances Policy</p> <p>Employee Equity and Diversity Policy</p> <p>Harassment and Discrimination Complaint Resolution for Students Policy and Procedure</p> <p>Media Engagement Policy</p> <p>Public Interest Disclosure Policy and Procedure</p>
Related Procedures	<p>Disciplinary Action for Misconduct or Serious Misconduct Procedure</p> <p>Discrimination, Bullying and Harassment Complaints against Employees Procedure</p> <p>Media Engagement Procedure</p> <p>Prevention of Discrimination, Bullying and Harassment Procedure</p> <p>Termination of Employment Procedure</p>
Related forms, publications and websites	<p>Feedback, Complaints and Appeals</p> <p>Harassment and Diversity Contact Officers</p> <p>Human Resources Website</p> <p>Student Equity Website</p>
Definitions	<p>Terms defined in the Definitions Dictionary</p> <p>Complainant</p> <p>A person who has made a Complaint against another person of the University community.</p> <p>Complaint</p> <p>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”.</p> <p>Decision</p> <p>A determination made by an Employee, contractor or other authorised delegate in the course of their duties on behalf of the University.</p>

[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 USQ 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](#)

Occurs when a person is made to feel intimidated, insulted or humiliated because of their race, colour, national or ethnic origin; sex; disability; sexual preference; or some other characteristic specified under anti-discrimination or human rights legislation. Harassment may include behaviour, comments or images which a reasonable person would consider to be offensive, humiliating, intimidating or threatening.

[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: has been Admitted or Enrolled in an Academic Program at the University, but has not yet graduated from the program; or has been Enrolled in a Course at the University but has not yet completed the Course.

[University](#)

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

[USQ Enterprise Agreement](#)

University of Southern Queensland Enterprise Agreement 2018-2021.

[Victimisation](#)

Any unfavourable treatment, or threats of unfavourable treatment against a person as a result of their actual or intended involvement in a complaint under the Anti-Discrimination Act 1991 or under any of these procedures. The involvement might include making a complaint, supplying information and producing documents to someone making a complaint or appearing as a witness in a proceeding under the Act.

Unfavourable treatment may include adverse changes to their study or work environment, denial of access to resources, work opportunities or training, ignoring the person or lower assessment of Student work. Victimisation is an offence under the Anti-Discrimination Act 1991.

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 Human Resources 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 HR representatives who facilitate the meeting between parties are also obligated to counsel and advise individuals of expected behaviours in

accordance with the USQ Code of Conduct and other appropriate policies, and identify any development opportunities for individuals involved.

Harassment and Diversity Contact Officer

A University Employee who has volunteered to provide an initial point of contact for Employees and Students who have inquiries about any form of Workplace Bullying and Harassment, Discrimination or Harassment. The Harassment and Diversity Contact Officers are appointed by the Vice-Chancellor for a term of three years. The Harassment and Diversity Contact Officer provides Information and support (not counselling) about the resolution options available to Employees and Students.

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 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.

Supervisor

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.

Nominated Representative

	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.
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